

Attachment—Additional Questions for the Record
Subcommittee on Environment and Climate Change
Hearing on
“The Fiscal Year 2022 EPA Budget”
April 29, 2021

The Honorable Michael S. Regan, Administrator, U.S. Environmental Protection Agency

The Honorable Frank Pallone, Jr. (D-NJ)

1. The EPA OIG Report titled: “EPA Should Conduct New Residual Risk and Technology Reviews for Chloroprene- and Ethylene Oxide-Emitting Source Categories to Protect Human Health” recommended that the EPA update the risk technology reviews for ethylene oxide and chloroprene.

Is your agency looking into conducting a new risk technology review (RTR) for ethylene oxide and chloroprene? If so, what is the timing? If not, what is the reason?

RESPONSE: EPA seeks to reduce risk from ethylene oxide and chloroprene and has committed to the EPA OIG to conduct reviews that consider risk for the following source categories: Group I polymers and resins that covers neoprene production; synthetic organic chemical manufacturing industry; polyether polyols production; chemical manufacturing area sources; commercial sterilizers; and hospital sterilizers (an area source category). The reviews will use the best-available science, including EPA’s updated risk values for chloroprene and ethylene oxide, and revise the corresponding rules controlling these pollutants, as needed. EPA is already working on the commercial sterilizers technology review and intends to propose a rule within the next year.

Planned completion dates for the RTRs by source category are:

- **Commercial Sterilizers: Quarter 4, FY22**
 - **Hospital Sterilizers: Quarter 4, FY23**
 - **Group 1 Polymers and Resins (Neoprene): Quarter 2, FY24**
 - **Synthetic Organic Chemicals Manufacturing Industry: Quarter 2, FY24**
 - **Polyether Polyols Production: Quarter 4, FY24**
 - **Chemical Manufacturing Area Sources: Quarter 4, FY24**
2. Please provide updates on the current status and/or agency plans with regard to the following rulemakings and actions, including any plans for environmental justice consultations:

- a. The Risk Management Planning program under Section 112(r) of the Clean Air Act;

RESPONSE: EPA is working to review prior actions, guided by science, the law, and the need for transparency, to protect public health and the environment and advance environmental justice. EO 13990, *Protecting Public Health and the Environment and Restoring Science to Tackle the Climate Crisis*, identified the Risk Management Program (RMP) Rule as a Trump administration action that EPA should review. In May, EPA announced two virtual public listening sessions about the RMP rule on June 16 and July 8. When making that announcement, Carlton Waterhouse, EPA's Deputy Assistant Administrator for the Office of Land and Emergency Management, stated: "These listening sessions are a first step in considering improvements to the RMP rule, so EPA can better address the impacts of climate change on facility safety and protect communities from chemical accidents, especially vulnerable and overburdened communities living near RMP facilities."

- b. The Lead and Copper Rule under the Safe Drinking Water Act;

RESPONSE: On Wednesday, June 16, EPA published a final rule to extend the effective date of the Lead and Copper Rule (LCR) Revisions to December 16, 2021. This action represents the next step in EPA's effort to take the time necessary to review the LCR Revisions and ensure that the rule protects families and communities, particularly those that have been disproportionately impacted by lead in drinking water. This action allows the Agency to continue conducting virtual engagements to gather valuable input from communities that have been impacted by lead and to seek feedback from national water associations, Tribes and Tribal communities, and EPA's state co-regulators. This action also extends the revised LCR's compliance deadline to October 16, 2024 to ensure that drinking water systems and primacy states continue to have the full three years provided by the Safe Drinking Water Act to take actions needed for regulatory compliance. Based on the review and feedback received during these engagements, EPA will identify appropriate next steps.

- c. Risk management actions for all chemical substances currently under consideration for risk management under Section 6 of the Toxic Substances Control Act, including asbestos and methylene chloride; and

RESPONSE: In response to the Administration's Executive Orders and policy priorities, [EPA is revisiting key elements relating to implementation of the existing chemicals risk evaluation program under the Toxic Substances Control Act \(TSCA\).](#) EPA believes that some of the policy decisions made during the first years of TSCA implementation do

not reflect the intent of the statute; therefore, the Agency has determined that some decisions and completed actions require review and revision.

With regard to making policy changes to better align with TSCA, the Agency looks to ensure that any changes to current policies or procedures are necessary and hew closely to the original intent of TSCA. In the coming weeks and months, the Agency will develop and publish statements and technical approaches for planned changes in policy to uphold the commitment to transparency and allow for public comment and peer review where appropriate. EPA will also be taking actions to effectuate these policy changes. Specifically, EPA will evaluate TSCA actions that were finalized between 2017 and early 2021 and, through a deliberate approach, work to better align them, as much as practicable, with TSCA and any updates to policies and procedures. So far, EPA has reviewed the risk evaluations issued for three of the first 10 chemicals under TSCA—HBCD, PV29, and asbestos (part 1: chrysotile asbestos) and believes the risk evaluations are likely sufficient to inform the risk management approaches being considered and these approaches will be protective. Moving forward, EPA intends to reissue the risk determinations that amend the approach to personal protective equipment (PPE) and include a whole chemical risk determination for these three chemicals. The Agency is also working expeditiously on risk management and believes the proposed rules for these three chemicals will likely be the first of the 10 to be ready for release.

Of the first 10 chemicals, EPA has determined that one of the risk evaluations—for 1,4-dioxane—EPA did not evaluate certain exposure pathways or populations that could be considered potentially exposed or susceptible subpopulations. Thus, EPA currently intends to re-open and update the 1,4-dioxane risk evaluation to consider whether to include additional exposure pathways, like drinking water and ambient air, and conditions of use where 1,4-dioxane is generated as a byproduct that were excluded from the supplemental and final risk evaluations. The agency plans to take public comment on any potential revisions to the 1,4-dioxane risk evaluation before finalizing them. Only upon completion of the updated risk evaluation will the Agency move to risk management.

For the remaining six of the first 10 chemicals, EPA plans to further examine whether the policy decision to exclude certain exposure pathways from the risk evaluations will lead to a failure to identify and protect populations at greatest risk. These six chemicals are methylene chloride, trichloroethylene, carbon tetrachloride, perchloroethylene, NMP, and 1-bromopropane. To determine if these six chemicals do present unreasonable risks to communities, EPA is developing a screening-level approach to conduct ambient air and surface water fenceline assessments. This approach will use existing data and

information to determine if there is the potential for unreasonable risk to fenceline communities associated with air and water exposures. If this approach yields information that there is no unreasonable risk to these communities, EPA intends to move forward to proposed risk management rulemakings. Alternatively, if the Agency finds through the application of the screening-level approach that there may be unreasonable risk to these communities that cannot be addressed without supplementing the risk evaluation or through the risk management approaches the agency is already considering, EPA will conduct a more comprehensive exposure assessment of fenceline communities and supplement the risk evaluation for that chemical with the new information.

- d. Risk evaluation actions for all chemical substances currently undergoing evaluation under Section 6 of the Toxic Substances Control Act.

RESPONSE: President Biden’s *Executive Order 13990: Protecting Public Health and the Environment and Restoring Science to Tackle the Climate Crisis* requires EPA to review the last Administration’s actions, including risk evaluations for chemical substances under TSCA. The Agency is evaluating whether to make any changes in specific areas of some of the risk evaluations to make sure that the risk evaluations and risk management rules (which must address unreasonable risks identified in the risk evaluations) are scientifically and legally defensible and that the rules are sufficiently protective. We plan to do this deliberately because the first 10 risk evaluations documented unreasonable risk under the majority of conditions of use for workers, occupational non-users, consumers and bystanders, and thus already require risk management to address the unreasonable risk in order to protect human health and the environment. To close gaps in the scope of the risk evaluation, EPA may need to conduct additional analysis for some of the first ten chemical risk evaluations to ensure that potential unreasonable risks have not been overlooked.

On June 30, 2021, EPA announced important policy changes surrounding risk evaluations issued under TSCA by the previous administration and the path forward for the first 10 chemicals to undergo risk evaluation. After agency review to ensure these risk evaluations follow the best available science and the law, EPA announced risk management actions to ensure these chemicals are used safely and all communities are protected. These changes include expanding consideration of exposure pathways and fenceline community exposure screening level approach, use of personal protective equipment, chemicals moving to risk management, and whether to take a whole chemical approach. Of the first 10 chemicals, EPA has determined that one of the risk evaluations—for 1,4-dioxane—EPA did not evaluate certain exposure pathways or

populations that could be considered potentially exposed or susceptible subpopulations. Thus, EPA currently intends to re-open and update the 1,4-dioxane risk evaluation to consider whether to include additional exposure pathways, like drinking water and ambient air, and conditions of use where 1,4-dioxane is generated as a byproduct that were excluded from the supplemental and final risk evaluations. The agency plans to take public comment on any potential revisions to the 1,4-dioxane risk evaluation before finalizing them.

For six of the first 10 chemicals, EPA plans to further examine whether the policy decision to exclude certain exposure pathways from the risk evaluations will lead to a failure to identify and protect communities at greatest risk of exposure. These six chemicals are methylene chloride, trichloroethylene, carbon tetrachloride, perchloroethylene, NMP, and 1-bromopropane. To determine if these six chemicals do present unreasonable risks to communities, EPA is developing a screening-level approach to conduct ambient air and surface water fence line assessments. This approach will use existing data and information to determine if there is the potential for unreasonable risk to fence line communities associated with air and water exposures. If this approach yields information that there is no unreasonable risk to these communities, EPA intends to move forward to proposed risk management rulemakings. Alternatively, if the Agency finds through the application of the screening-level approach that there may be unreasonable risk to these communities that cannot be addressed without supplementing the risk evaluation or through the risk management approaches the agency is already considering, EPA will conduct a more comprehensive exposure assessment of affected populations and supplement the risk evaluation for that chemical with the new information. Later this calendar year, EPA plans to make these screening approaches and methods, and their application to one or more chemicals, available for public comment and have them peer reviewed by the Scientific Advisory Committee on Chemicals.

The Honorable John P. Sarbanes (D-MD)

1. Within the last few years, we have created a “most effective basins” grant program within the EPA Bay Program budget. Most effective basins essentially means “let’s get the money to places where we can make the biggest pollution reduction, most efficiently.” We were pleased with how the money was allocated in FY 2020. Do you plan to allocate the funding in the same manner and when do you expect that FY 2021 funds will be available to the states?

RESPONSE: EPA plans to use the same allocation and funding approach that was used in FY2020, with a focus on reducing loads from agriculture. The additional \$1.25 million will target underrepresented communities. EPA has

notified the recipients of their FY21 Most Effective Basins (MEB) allocations. EPA is currently awaiting revised applications and expects to have all of the MEB funding awarded by the end of the fiscal year.

2. Many best management practices or BMPs that are utilized to improve water quality in the Bay watershed have other co-benefits as it pertains to climate resilience, wildlife or ecosystem restoration or in helping to solve other environmental challenges. Does the EPA have a plan to create any system for quantifying these co-benefits for specific BMPs?

RESPONSE: EPA collaborates with Chesapeake Bay Program partners to develop science and tools to advance understanding of the possible co-benefits associated with implementation of water quality BMPs. EPA contributed to development of a system for quantifying the effects of Chesapeake Bay Model best management practices on each of the Chesapeake Bay Program's management strategies.

Building on this effort, EPA is currently developing a methodology to identify and quantify ecosystem service co-benefits of nutrient and sediment-reducing BMPs, utilizing the EPA-developed National Ecosystems Classification System-plus framework. EPA is evaluating options for integrating information generated from this research into the Chesapeake Assessment Scenario Tool.

3. Can you provide an update on your efforts to reconstitute the Chesapeake Bay Czar position? If we are going to meet our pollution reduction goals, we desperately need collaboration across many federal agencies – EPA and USDA is just one example. Can you commit to filling a Chesapeake Bay Czar position relatively soon?

RESPONSE: EPA is currently evaluating the best approach for coordinating EPA and federal efforts to restore the Chesapeake Bay. EPA is working closely with EPA Region 3, including the Chesapeake Bay Program Office, to identify how to strengthen those existing entities while ensuring a strong voice for these efforts within the Administrator's office. EPA looks forward to keeping your office closely informed as we strengthen our commitment and coordination on Chesapeake Bay restoration.

4. As part of America's Water Infrastructure Act of 2018, Congress created a new Drinking Water System Infrastructure Resilience and Sustainability Program at EPA, which is intended to help small and disadvantaged community water systems prepare their infrastructure to withstand the effects of climate change and extreme weather. If Congress expanded access to this program to cities and towns of all sizes, could it help cities like Baltimore address their own climate adaptation needs? Are you confident that EPA would be able to manage a larger Drinking Water System Infrastructure Resilience and Sustainability Program, if provided appropriate resources by Congress?

RESPONSE: Yes, we are confident the Agency would be able to implement an expanded program. Accordingly, the FY 2022 Budget included a total of \$9 million for the program, an increase of \$5 million over FY 2021 Enacted levels.

As you note, Congress authorized a new Drinking Water System Infrastructure Resilience and Sustainability Program in America's Water Infrastructure Act of 2018, and Congress provided first-time appropriations for this program in Fiscal Year 2020. EPA is in the final stages of preparing a Request for Applications for this inaugural round of funding.

EPA appreciates Congress' continued attention toward increasing the resilience of our nation's water infrastructure to climate change and extreme weather, including through the Drinking Water and Wastewater Infrastructure Act (S. 914). EPA looks forward to providing technical assistance to Congress as it considers this important issue.

The Honorable Scott H. Peters (D-CA)

1. What resources does EPA need to adequately address and monitor methane emissions, such as staffing or other tools?

RESPONSE: EPA's FY 2022 budget request includes resources for reducing greenhouse gas emissions while advancing environmental justice and creating good-paying jobs. This includes a \$100 million increase for air quality grants to states and Tribes that will reduce greenhouse gas emissions under the Clean Air Act as well as a restoration of the Air, Climate and Energy Research Program, which is increased more than \$60 million and includes \$30 million for collaborative research in climate adaptation and resilience with the new Advanced Research Projects Agency for Climate (ARPA-C) located within the Department of Energy.

The Honorable A. Donald McEachin (D-VA)

1. Administrator Regan, how will your office work with communities that are most impacted to communicate the new funding opportunities under your EPA leadership?

RESPONSE: EPA appreciates that increased support for such grant programs are ineffective if the resources do not reach the intended recipients—our nation's most heavily impacted communities and their partners at state, tribal, and local government levels focused on supporting community-driven efforts to solve environmental justice challenges. EPA's Office of Environmental Justice (OEJ) uses multiple methods to ensure that communities are aware of and have the capacity and support to apply for our competitive awards. OEJ manages a large and diverse email listserv which regularly updates the public on availability of funds. EPA's regional EJ coordinators similarly manage more

focused lists of communities and partners in their regions to broadcast information in addition to doing individual outreach and amplification through other partners in philanthropy, state/tribal/local governments, and other forums. Outside of grant competition cycles, OEJ and EPA's regional EJ coordinators convene multiple grant-writing workshops and capacity-building events to help prospective applicants prepare for grants competitions when they open. During grant competitions, OEJ holds multiple applicant assistance calls open to the general public and for several years has also ensured that at least one assistance call is performed fully in Spanish. We also make our grant competition information available in Spanish and other languages upon request. OEJ also maintains updated descriptions and other communication materials such as story maps of past grant projects to further assist communities in formulating future grant proposals. OEJ has also maintained a focus on ensuring that our grant funding consistently reaches those community organizations and other partners which perhaps do not have the benefit of past grant projects and capacity building efforts to compete in our grant programs. We achieve this by regularly including an explicit area of focus in our grant solicitations which allows EPA to give selection preference to organizations and areas of the country which have not recently received a grant award.

2. How is your agency working with CEQ on establishing what programs and investments will count towards the 40%?

RESPONSE: Executive Order 14008, *Tackling the Climate Crisis at Home and Abroad*, creates a government-wide Justice40 Initiative with the goal of delivering 40 percent of the overall benefits of relevant federal investments to disadvantaged communities and tracks performance toward that goal through the establishment of an Environmental Justice Scorecard. EPA is providing robust support, alongside several other federal agencies, for the White House's leadership in implementing EO 14008. This includes staffing support for the administration of the White House Environmental Justice Advisory Council (WHEJAC) and the Interagency Council on Environmental Justice (EJ IAC). Additionally, EPA representatives on the EJ IAC are playing prominent roles in several of the workgroups established under the EJ IAC to help implement various elements of Justice40. EPA will continue to play a prominent role to support White House leadership, while implementing the E.O.

3. Do you agree that 40% of investments should be the bare minimum and not the final goal?

RESPONSE: EPA has long provided leadership across the federal government in prioritizing our investments, the implementation of our statutory authorities, and the impact of our voluntary activities to focus on advancing justice on the ground in our country's people of color, low-income, and indigenous communities. EPA's goal is to maximize our ability to impact meaningful change on the ground for the communities that need it most.

4. Administrator Regan, can you tell us how the EPA is working in tandem with OMB and CEQ to create a tool that accurately identifies environmental hazards and impacted communities?

RESPONSE: Executive Order 14008, *Tackling the Climate Crisis at Home and Abroad*, initiated the development of a Climate and Environmental Justice Screening Tool to identify disadvantaged communities, support the Justice40 Initiative, and inform equitable decision-making across the federal government. EPA's FY 2022 Budget request includes an increase of \$5.9 million for EJSCREEN to help the Agency prioritize programmatic work in communities with environmental justice concerns. EO 14008 places leadership for creation of the Climate and Environmental Justice Screening Tool with the Council on Environmental Quality. EPA staff associated with our EJSCREEN tool are providing support to this interagency effort and stand at the ready to provide additional support and involvement as needed.

5. Does the EPA envision using this tool to better target enforcement actions or better identify communities for investment?

RESPONSE: Yes. EPA's Office of Enforcement and Compliance Assurance has long provided leadership within EPA on the integration of environmental justice considerations within their programs, policies, and activities, including the early adoption and incorporation of EJSCREEN into core enforcement and compliance considerations.

EPA's Office of Environmental Justice has also worked to integrate EJ considerations and EJSCREEN into EPA's grant programs. EPA is supporting CEQ's efforts to build the Climate and Economic Justice Screening Tool and, upon that tool's creation, will assess opportunities for its use within our programmatic work.

6. Do you envision this tool helping to identify cumulative impacts a community may be subject to?

RESPONSE: Yes. EPA's FY 2022 Budget request continues to support and improve EPA's nationally consistent EJ screening tool, EJSCREEN, which synthesizes environmental risk information from multiple pollution sources as a critical data for communities to conduct cumulative impact assessments.

Efforts will focus on continuing to identify and add valuable new data sources to the tool with a focus on climate-relevant data, in addition to enhancing user interface elements. This investment is intended to further inform equitable decision making across the federal government and within EPA and provide more robust and diverse data to effectively prioritize EJ considerations across our work. EPA is also helping CEQ as it builds the Climate and Economic

Justice Screening Tool. EPA has and will continue to closely monitor and provide assistance to other efforts, particularly those by state and local governments, to build similar equity and justice screening tools, some of which contain cumulative views and cumulative scores.

The Honorable David B. McKinley (R-WV)

General:

1. Do you agree that there is a long-term future for coal in the United States' energy supply?

RESPONSE: Coal plays an important role in our electricity sector; its production and use also cause pollution and contribute to climate change. I believe the President has made it clear that we need a wide variety of fuel sources to move us forward toward a cleaner energy future.

2. Do you agree that there is a long-term future for natural gas in the United States' energy supply?

RESPONSE: Natural gas plays an important role in our energy supply; its production and use also cause pollution and contribute to climate change. I believe the President has made it clear that we need a wide variety of fuel sources to move us forward toward a cleaner energy future.

3. Do you agree that there is a long-term future for oil in the United States' energy supply?

RESPONSE: Oil plays an important role in our energy supply; its production and use also cause pollution and contribute to climate change. I believe the President has made it clear that we need a wide variety of fuel sources to move us forward toward a cleaner energy future.

Clean Air Act and the Power Sector:

4. The Clean Air Act exempts small refiners facing “disproportionate economic hardship” from complying with the Renewable Fuel Standard (RFS). The Supreme Court of the United States recently heard the case, *HollyFrontier v. EPA*, which could impact SREs.

Do you commit to refraining from any action on SREs until after the Supreme Court has issued its decision in this case?

RESPONSE: Yes. EPA will implement the small refinery exemption provisions in accordance with the decision of the Supreme Court.

5. When developing the Clean Power Plan (CPP), the Obama Administration refused to hold hearings in impacted communities in states like West Virginia.

- a. Will you commit to holding public events and outreach sessions in those states most likely to be affected by any future rulemaking?

RESPONSE: In all its programs, EPA strives to provide opportunities for the fullest possible public participation in decision-making. This requires not only that EPA remain open and accessible to those representing all points of view, but also that EPA offices responsible for decisions take affirmative steps to solicit the views of those who will be affected by these decisions. This includes communities of color; Native Americans; rural communities; low-income communities; small businesses; local governments, Tribes, and states; and those who have been historically underrepresented in EPA decision-making. Consistent with the goals laid out by President Biden in E.O. 13985, EPA will also continually assess whether, and to what extent, our approaches to public transparency perpetuates barriers to opportunities and benefits to people of color and other underserved groups, with a goal of delivering resources, benefits, and opportunities equitably to all. EPA will not accord privileged status to any special interest, nor will it accept any recommendation or proposal without careful, critical, and independent examination.

- b. Will you commit to notifying those communities well in advance of any public events or outreach sessions?

RESPONSE: In all its programs, EPA strives to provide opportunities for the fullest possible public participation in decision-making. This requires not only that EPA remain open and accessible to those representing all points of view, but also that EPA offices responsible for decisions take affirmative steps to solicit the views of those who will be affected by these decisions. Providing adequate notice to the public and to interested stakeholders is essential to effective public participation and will be an important part of EPA's outreach efforts.

- 6. President Trump replaced the CPP with the Affordable Clean Energy (ACE) Rule, which the D.C. Circuit remanded to EPA early in this Administration.
 - a. Several parties have appealed that decision. Will you commit to refraining from any action or new rulemakings under section 111(d) of the Clean Air Act until all judicial remedy is exhausted?

RESPONSE: EPA has an obligation to address emissions of greenhouse gas pollution from existing sources in the power sector and is taking a fresh look at our options for doing so.

- b. How do you interpret section 111(d)? Do you believe that EPA has the authority to regulate "outside the fence line?"

RESPONSE: EPA is taking a fresh look at our options for addressing greenhouse gas pollution from existing power plants, drawing on the lessons of our prior rulemakings on this topic. EPA will ensure that any approach is anchored in science and the law and is informed by robust engagement with a broad range of stakeholders.

- c. Will you commit to refraining from, should judicial remedy be exhausted, and the ACE Rule again be remanded to EPA, proposing any new regulatory program under section 111(d) that is substantively similar to the CPP?

RESPONSE: EPA is taking a fresh look at our options for addressing greenhouse gas pollution from existing power plants and will ensure that any approach is anchored in science and the law.

- d. Will you commit to ensuring that any new regulations issued under the Clean Air Act recognize the principles of cooperative federalism?

RESPONSE: EPA is taking a fresh look at our options for addressing greenhouse gas pollution from existing power plants. Section 111(d) of the Clean Air Act provides states with a central role in developing plans to implement and enforce limits on pollution from existing sources, subject to emission guidelines issued by EPA. In addition, EPA always evaluates federalism implications as part of the regulatory process under Executive Order 13132 and will continue to do so for any future rulemakings. We will carefully evaluate the impacts of any future rules and will provide an opportunity for states and stakeholders to provide comments.

- e. Will you commit to ensuring that any new regulations issued under the Clean Air Act will not force our existing coal- and natural gas-fired power generation to retire early?

RESPONSE: The timing for the retirement of an existing power generating source is a complex decision driven by many factors, including changing fuel prices and other operating costs. Power companies' long-term investment plans and climate goals and state laws and policies also play a role in retirement dates. EPA conducts a Regulatory Impact Analysis (RIA) for significant rulemakings consistent with E.O. 12866 and typically conducts other economic analyses to evaluate the projected impacts of proposed and final rules.

- f. Will you commit to ensuring that any new regulations issued under the Clean Air Act will not result in increased unemployment?

RESPONSE: EPA is taking a fresh look at our options for addressing greenhouse gas pollution from both existing and new power plants. As

with all significant regulations, EPA will carefully assess the potential impacts of any new regulations and provide an opportunity for the public to provide comments.

- g. Will you commit to ensuring that any new regulations issued under the Clean Air Act will not result in increased costs to consumers and ratepayers?

RESPONSE: EPA is taking a fresh look at our options for addressing greenhouse gas pollution from both existing and new power plants. As with all significant regulations, EPA will carefully assess the potential impacts of any new regulations and provide an opportunity for the public to provide comments.

- 7. The New Source Review permitting process can often be an extremely long and complicated process, often deterring owners and operators from making much-needed improvements to their units.
 - a. Do you agree that the New Source Review program needs to be reformed so that utilities can upgrade power plants with carbon capture technology without facing additional regulatory burdens?

RESPONSE: Pursuant to Executive Order 13990, *Protecting Public Health and the Environment and Restoring Science to Tackle the Climate Crisis*, EPA has initiated immediate review of Agency actions taken between January 20, 2017 and January 20, 2021 that are inconsistent with the Executive Order's directive that EPA take action "to listen to the science; to improve public health and protect our environment; to ensure access to clean air and water;...to reduce greenhouse gas emissions;... and to prioritize [] environmental justice...." EPA is reviewing New Source Review actions from the past Administration. EPA is committed to administering the New Source Review program in a manner that upholds the Clean Air Act, protects public health and the environment, and provides appropriate regulatory clarity.

- b. Will you commit to working with Congress to do so?

RESPONSE: EPA is reviewing New Source Review actions from the past Administration. The Agency seeks to provide for the fullest possible public participation in EPA's decision-making, and we look forward to continuing to engage with our partners in Congress.

- c. What reforms do you intend to make to reduce these hurdles?

RESPONSE: EPA is reviewing New Source Review actions from the past Administration.

- d. Will you provide to our staff data on how many New Source Review permits EPA and the 50 states have approved or denied over the course of the last 20 years?

RESPONSE: EPA maintains a database to track control technology determinations for facilities that obtain major New Source Review (NSR) permits. The database is called the RACT/BACT/LAER Clearinghouse (RBLC) and can be found at <https://cfpub.epa.gov/RBLC/>. This database does not include all nationwide permitting actions because the Clean Air Act only requires that permitting agencies enter the control determinations for major NSR permits issued to facilities in non-attainment areas. These non-attainment NSR (NNSR) permits include controls based on the Lowest Achievable Emission Rate (LAER).

However, permitting agencies issue significantly more major NSR permits each year to sources in attainment areas, which are called Prevention of Significant Deterioration (PSD) permits and are required to apply controls based on Best Available Control Technology (BACT). There are no statutory or regulatory requirements for permitting agencies to enter BACT determinations into the RBLC, and State and local agencies issue the NSR permit in greater than 90% of situations. As a result, the RBLC is not populated with all NSR permitting decisions, and EPA generally believes it may only contain about 50% of them. EPA Regions also maintain their own websites that track their EPA-issued NSR permits, and most state and local agencies track their permits, so these are additional places where interested parties can find permitting data.

Although EPA does not know the exact number of permits that have been issued over the years, we generally estimate that, each year, agencies issue about 200-300 PSD permits with BACT, fewer than 50 NNSR permits with LAER, and more than 10,000 “minor NSR” permits (which do not have a BACT or LAER requirement).

8. When asked by Representative Crenshaw if you were familiar with the CLEAN Future Act, you stated, “I am unfamiliar with the [CLEAN Future Act], have not been briefed by my team, which seems to signal to me that it may not be high on our priority list.”
- a. Did EPA provide any technical assistance in the drafting of the CLEAN Future Act?

RESPONSE: EPA staff have provided some technical assistance on specific sections of the CLEAN Future Act as introduced.

- b. Does EPA expect to provide any technical assistance on this bill in the future?

RESPONSE: EPA is available to provide technical assistance to the Committee to the extent the Committee seeks such input.

- c. Does EPA plan to testify before the Committee on Energy and Commerce on each of the provisions in the CLEAN Future Act?

RESPONSE: EPA defers to the Committee on its plans for future hearings and other legislative engagements regarding the CLEAN Future Act. To the extent this involves additional hearings or an invitation for EPA to testify, we look forward to working with the Committee to accommodate such interest.

Carbon Capture, Utilization, and Storage:

- 9. Carbon capture, utilization, and storage (CCUS) is a critical component for reducing the United States' carbon dioxide emissions and allowing us to continue to burn out fossil fuels cleanly in power generation. The Energy Act of 2020 included several provisions to support the buildout of CCUS, including the USE IT Act.

- a. Do you believe that CCUS is necessary to reach net-zero emissions?

RESPONSE: The Administration supports large-scale carbon capture utilization and storage efforts that leverage the best science and prioritize community engagement. The Administration believes that CCUS can be a component of a low (or zero) carbon emitting power sector.

- b. Will you commit to accelerating the development and deployment of CCUS?

RESPONSE: The Administration supports large-scale carbon capture utilization and storage efforts that leverage the best science and prioritize community engagement. The Administration believes that CCUS can be a component of a low (or zero) carbon emitting power sector. EPA is committed to working with DOE to understand additional opportunities to deploy CCUS on new and existing power plants.

- c. Will you commit to supporting the build out of the infrastructure needed to deploy CCUS and store captured carbon, including pipelines?

RESPONSE: The Administration supports large-scale carbon capture utilization and storage efforts that leverage the best science and prioritize community engagement. The Administration believes that CCUS can be a component of a low (or zero) carbon emitting power sector. EPA is committed to working with our federal partners (DOE, DOT, DOI) to

understand opportunities and barriers to developing additional infrastructure to deploy CCUS on a larger scale.

- d. Will you commit to ensuring that the Administration does not put additional regulatory barrier in place to hinder the development of carbon dioxide pipelines?

RESPONSE: The Administration supports large-scale carbon capture utilization and storage efforts that leverage the best science and prioritize community engagement. The Administration believes that CCUS can be a component of a low (or zero) carbon emitting power sector. EPA is committed to working with our federal partners (DOE, DOT, DOI) to understand any barriers that hinder the development of additional infrastructure needed to deploy CCUS on a larger scale.

- e. Will you commit to ensuring that all reports that the Administration is required to issue under the Act will be released within the required time frames?

RESPONSE: EPA strives to meet our statutorily required obligations, including the timelines set forth in enacted legislation.

- f. Will you commit to ensuring that any other regulatory barriers, such as the New Source Review program, are structured in a way to allow us to retrofit our existing coal- and natural gas-fired units with carbon capture technology?

RESPONSE: When considering regulatory policies related to the power sector, EPA will adhere to science and the law—including our obligations under the Clean Air Act. EPA also will consider relevant market trends and technological innovations, including advances in CCUS technology.

- g. What regulatory actions will EPA and the Administration take to ensure we can safely store captured carbon dioxide underground without additional red tape?

RESPONSE: The Administration supports large-scale carbon capture utilization and storage efforts that leverage the best science and prioritize community engagement. EPA has a regulatory framework authorized under the Clean Air Act and Safe Drinking Water Act that ensures the long-term, safe, and secure geologic sequestration of CO₂. When considering additional regulatory policies related to carbon sequestration, EPA will adhere to science and the law—including our obligations under the Clean Air Act, the Safe Drinking Water Act, and other relevant statutes we administer.

Coal Ash:

10. Coal combustion residuals have several beneficial uses and is often used for the manufacture of the concrete used in our roads and bridges. Since 1988, under both Republican and Democratic administrations, EPA has issued two Reports to Congress (1988 and 1999) and two Regulatory Determinations (1993 and 2000) finding that “hazardous waste” regulation of coal ash is not warranted and encouraging the beneficial use of coal ash. EPA’s 2015 Final Rule regulating the disposal of coal ash preserved its “non-hazardous” regulatory status and the regulatory exemption for beneficial use.

- a. As this Administration seeks to implement its “Build Back Better” agenda, will you commit to ensuring that EPA will not impose new restrictions on the beneficial use of coal ash?

RESPONSE: EPA solicited and-received comments on a Notice of Data Availability (NODA) regarding the beneficial use of coal ash. EPA is evaluating the information submitted to the Agency and will use that information to determine an appropriate path forward.

- b. Do you believe that coal ash does, in fact, have beneficial uses?

RESPONSE: The beneficial use of coal ash can produce positive environmental, economic, and performance benefits such as reduced use of virgin resources, lower greenhouse gas emissions, reduced cost of coal ash disposal, and improved strength and durability of materials. The final regulation published in the April 17, 2015 Federal Register (80 FR 21302) (referred to as the “2015 CCR Rule”) supports the responsible beneficial use of coal ash by distinguishing beneficial use from disposal (80 FR 21347 – 21354). Examples of environmentally responsible beneficial use of coal ash that the Agency supports based on its 2014 evaluation include the use of coal ash as a replacement for portland cement in concrete and the use of flue gas desulfurization gypsum as a replacement for mined gypsum in wallboard.

- c. Do you agree that EPA should preserve coal ash’s “non-hazardous” regulatory status?

RESPONSE: In the preamble to the final 2015 CCR Rule, EPA deferred making a final decision on the Bevill regulatory determination for CCR destined for disposal. (80 FR at 21319). As a result, the disposal of coal ash waste remains subject to the comprehensive requirements under RCRA subtitle D. At the same time, the final 2015 CCR Rule retained the Bevill exclusion from hazardous waste regulation for CCR that is beneficially used. (80 FR 21309). As EPA explained in the preamble to the final 2015 CCR rule, any revisions to any Bevill determination will first involve public notice and comment.

11. Unencapsulated coal ash beneficial use applications have been widespread since the 1970s and are conducted in compliance with numerous engineering and consensus-based standards. The CLEAN Future Act, however, seeks to prohibit, as open dumping, the use of coal combustion residuals in unencapsulated uses.

a. Do you support this provision in the CLEAN Future Act?

RESPONSE: EPA and the Administration have not taken a position on the CLEAN Future Act, but EPA is available to provide technical assistance to the Committee to the extent the Committee seeks such input.

b. Will you commit to working with Congress to ensure the continued beneficial use of unencapsulated coal ash?

RESPONSE: EPA will work with Congress to provide technical assistance if requested.

Clean Water Act:

12. Section 401 of the Clean Water Act is one of the best examples of cooperative federalism in U.S. environmental statutes, and requires that EPA work collaboratively with other agencies, states, and tribes, to establish regulations for water quality standards. Certain states, however, have utilized this permitting program to veto federally approved energy infrastructure projects on the grounds of climate change or a state's clean energy goals, rather than water quality.

a. Do you agree with these States' actions?

RESPONSE: EPA believes that Congress provided authority to states and Tribes under Clean Water Act section 401 to protect the quality of their waters from adverse impacts resulting from federally licensed or permitted projects. EPA recently announced its intent to revise the 2020 Clean Water Act Section 401 Certification Rule after determining that the rule erodes state and Tribal authority. Through this process, EPA intends to strengthen the authority of states and Tribes to protect their vital water resources.

b. Will you commit to ensuring that States only utilize this permitting authority for the purposes of ensuring water quality standards and not on other grounds?

RESPONSE: EPA's process of reconsidering and revising the 2020 Section 401 Certification Rule will provide opportunity for public and stakeholder input to inform the development of a proposed regulation and will include sustained dialogue with state and Tribal co-regulator partners and local governments around these issues. EPA is concerned

that the 2020 rule’s narrow scope of certification and conditions may prevent state and tribal authorities from adequately protecting their water quality. EPA is currently seeking stakeholder input on these questions.

Brownfields:

13. The Brownfields and Superfund programs provide critical opportunities for underserved and economically disadvantaged communities to redevelop their lands and revitalize their economies.

a. Will you commit to prioritizing these programs?

RESPONSE: Yes. Cleaning up hazardous waste sites and brownfields can revitalize communities, increase property values, and create good jobs—all while improving public health.

b. Will you commit to ensuring that Brownfields grants are issued in a timely fashion?

RESPONSE: Yes.

c. Will you commit to ensuring that no additional regulatory barriers are implemented that would slow the progress made to delist sites on the National Priorities List or that are part of the Superfund program?

RESPONSE: I am not familiar with the regulatory barriers to which you are referring. EPA currently has a substantial backlog of Superfund cleanup projects that are ready for funding. New funding, including funding included in the President’s FY 2022 Budget and in the American Jobs Plan, can help make a dent in the backlog and accelerate progress at cleanup projects already in progress.

International:

14. The United States is extremely reliant upon foreign nations for the critical minerals needed to manufacture renewable energy technologies, electric vehicles, and other goods. Many of these foreign nations, including China, have extremely weak environmental and labor standards.

a. Will you commit to working with the Administration and Congress to ensure the United States can develop a critical mineral and rare earth mining and refining industries and workforce domestically?

RESPONSE: On February 24, 2021, the President signed E.O. 14017, directing a whole-of-government approach to assessing vulnerabilities in, and strengthening the resilience of, critical supply chains. On June 8, the Biden-Harris Administration announced key findings from the supply

chain reviews directed under E.O. 14017 as well as immediate actions the Administration will take to strengthen American supply chains to promote economic security, national security, and good-paying, union jobs here at home. EPA looks forward to working with its federal partners to implement the relevant recommendations in these reports.

- b. How will the Administration do that?

RESPONSE: On February 24, 2021, the President signed E.O. 14017, directing a whole-of-government approach to assessing vulnerabilities in, and strengthening the resilience of, critical supply chains. On June 8, the Biden-Harris Administration announced key findings from the supply chain reviews directed under E.O. 14017 as well as immediate actions the Administration will take to strengthen American supply chains to promote economic security, national security, and good-paying, union jobs here at home. EPA looks forward to working with its federal partners to implement the relevant recommendations in these reports.

15. On May 12, 2021, in front of the U.S. House of Representatives Foreign Affairs Committee, U.S. Climate Envoy John Kerry stated that trusting China on climate would be “stupid and malpractice.”

- a. Do you agree with him?

RESPONSE: China is the world’s second largest economy and is the world’s largest greenhouse gas emitter. China’s efforts to reduce emissions this decade need to be consistent with China’s position as a leading economy and the world’s largest GHG emitter.

- b. Do you agree that regardless of what the United States does to reduce its emissions, it will not matter because countries like China are continuing to build out their coal-fired generation?

RESPONSE: China is the world’s second largest economy and is the world’s largest greenhouse gas emitter. The Paris Agreement calls for action by all countries to reduce greenhouse gas emissions. China’s efforts to reduce emissions this decade need to be consistent with China’s position as a leading economy and the world’s largest GHG emitter.

- c. Will you commit to ensuring that any climate action taken by EPA will not put the United States at a competitive disadvantage to China?

RESPONSE: China is the world’s second largest economy and is the world’s largest greenhouse gas emitter. The Paris Agreement calls for action by all countries to reduce greenhouse gas emissions. China’s

efforts to reduce emissions this decade need to be consistent with China's position as a leading economy and the world's largest GHG emitter.

16. The White House has released some details of their National Determining Contribution (NDC), and its materials state that 50 to 52% pledge made under the Paris Accord was the result of a "bottom-up analysis of existing and potential policies and measures at the federal level." To date, that analysis and the accompanying set of regulatory plans necessary to achieve the NDC have not been made public.

- a. Please list the sectors for which EPA plans to develop regulations within its statutory jurisdiction to achieve the climate goals.

RESPONSE: As EPA proposes new regulations to reduce pollution from stationary and mobile sources, we will be fully transparent and provide a thorough, detailed analysis of the proposal and solicit robust public comment.

- b. Will you commit to providing our staff with all data used in determining the Administration's NDC?

RESPONSE: As part of re-entering the Paris Agreement, President Biden launched a whole-of-government process, organized through his National Climate Task Force—of which I am a member—to establish a new 2030 emissions target – known as the "nationally determined contribution" or "NDC," a formal submission to the United Nations Framework Convention on Climate Change (UNFCCC).

The NDC was developed by the National Climate Task Force using a whole-of-government approach, relying on a detailed bottom-up analysis that reviewed technology availability, current costs, and future cost reductions, as well as the role of enabling infrastructure. Standards, incentives, programs, and support for innovation were all weighed in the analysis. The National Climate Task Force is developing this into a national climate strategy to be issued later this year.

17. On his first day in office, President Biden revoked the Presidential Permit for the Keystone XL pipeline.

- a. Did you have any role in that decision?

RESPONSE: President Biden did not consult me on his Keystone XL decision, as I had not yet been confirmed.

- b. Do you agree with the President's decision to kill thousands of jobs with the stroke of a pen?

RESPONSE: As a general matter, any job lost is a hardship for a family, and that is not something EPA takes lightly. President Biden has put jobs at the center of his Build Back Better and climate agenda, which lays out a vision for good-paying union jobs to build the infrastructure we need to maintain U.S. competitiveness, restore U.S. climate leadership, and move us to a clean energy economy. The President recognizes that we need to help workers affected by this transition. I am committed to working with the rest of the Biden-Harris Administration team as we work to position U.S. workers to secure jobs in deploying clean energy and building modern, resilient infrastructure while we invest in disadvantaged and underserved communities.

18. President Biden has created numerous positions within the White House focused solely on climate change.

a. Do you expect EPA to be the lead agency in developing climate policy?

RESPONSE: EPA has an important role to play in the whole-of-government response to climate change. EPA will develop and implement its climate policy in accordance with science and the statutory authorities Congress has granted it.

b. How will you ensure that EPA is developing climate regulations, and not Envoy Kerry or Climate Czar Gina McCarthy?

RESPONSE: Where decisions are within EPA's purview, I can assure you that I will lead and make those decisions, and I will accept the accountability for those decisions.

c. Will you commit to ensuring that these other positions do not unduly influence EPA's actions?

RESPONSE: Where decisions are within EPA's purview, I can assure you that I will lead and make those decisions, and I will accept the accountability for those decisions.

19. President Biden recently released his infrastructure plan, which includes a goal of "carbon-free electricity" by 2035. This goal is in line with Chairman Pallone's CLEAN Future Act, which seeks to decarbonize the power sector by 2035, with an interim goal of an 80% reduction in carbon emissions by 2030.

a. How do you believe the United States will reach the goal of reducing emissions by 100% by 2035?

RESPONSE: The United States has set a goal to reach 100 percent carbon pollution-free electricity by 2035, which can be achieved through

multiple cost-effective pathways. That means good-paying jobs deploying carbon pollution-free electricity generating resources, transmission, and energy storage and leveraging the carbon pollution-free energy of existing nuclear and power plants retrofitted with carbon capture, while ensuring those facilities meet robust and rigorous standards for worker, public, environmental safety, and environmental justice. Many of these reductions will materialize via market forces through planned or projected investments in clean power generation, driven by multiple factors including the low and falling costs of zero-carbon energy as well as supportive state policies and strong consumer interest in clean power.

- b. How do you believe the United States will reach the goal of reducing emissions by 80% by 2030?

RESPONSE: America's 2030 target picks up the pace of emissions reductions in the United States, compared to historical levels, while supporting President Biden's goals to create a carbon pollution-free power sector by 2035 and net zero emissions economy by no later than 2050. There are multiple paths to reach these goals, and the U.S. federal, state, local, and tribal governments have many tools available to work with civil society and the private sector to mobilize investment to meet these goals while supporting a strong economy. Many of these reductions will materialize via market forces through planned or projected new power plants.

- c. Given that fossil fuels represent at least 60% of the United States' energy generation mix, do you expect coal and natural gas to still be part of that mix if CCUS is not able to reach commercial scale, permitting reforms, including New Source Review, are not made, and we're unable to build out a system of carbon dioxide pipelines in the next decade?

RESPONSE: America's 2030 target picks up the pace of emissions reductions in the United States, compared to historical levels, while supporting President Biden's existing goals to create a carbon pollution-free power sector by 2035 and net zero emissions economy by no later than 2050. There are multiple paths to reach these goals, and the U.S. federal, state, local, and tribal governments have many tools available to work with civil society and the private sector to mobilize investment to meet these goals while supporting a strong economy.

20. What direct impact will the Administration's actions have on reducing global temperature change?

RESPONSE: As the science demands, President Biden's goal is to work with global partners to achieve net-zero greenhouse gas emissions by no later than 2050 and limit global warming to 1.5 degrees Celsius.

The Honorable Cathy McMorris Rodgers (R-WA)

Budgeting, Staffing, and Use of Resources:

1. The President's budget request is \$2 billion more than EPA's current funding level – the second highest amount Congress has ever given to EPA. From the one and one-half page explanation, I can only find specific requests for \$7.5 billion dollars.
 - a. For what is the other \$3.7 billion proposed in the budget being used?

RESPONSE: The proposed FY 2022 budget for the EPA provides \$11.233 billion and 15,324 FTE to support the Agency's mission of protecting human health and the environment. This includes more than 1,000 new FTE to address the Agency's priorities and work with our partners across the Nation. This budget is rooted in the EPA's commitment to advancing environmental justice, tackling climate change, protecting public health, improving infrastructure, and rebuilding the EPA workforce to accomplish the Agency's mission. The budget also expands funding for research and development to ensure that scientific integrity guides the Agency in the years to come.

Every appropriation, program area, and program project in the budget proposal is described in detail in the Congressional Justification, including explanations of change for every resource and FTE change from the FY 2021 enacted level. For more information and details about the FY 2022 President's Budget for the EPA, please see the [FY 2022 EPA Budget in Brief](#), which provides an overview of the Agency's proposed budget and activities, and the [FY 2022 Justification of Appropriation Estimates for Committee on Appropriations](#), known as the Congressional Justification (CJ), which includes detailed budget information for each of EPA's programs.

- b. How much does this budget give to the States?

RESPONSE: Nearly 50 percent of the FY 2022 Budget request is specifically allocated to EPA's state and tribal partners through the State and Tribal Assistance Grant (STAG) appropriation. The FY 2022 request allocates \$1.242 billion to support our state and tribal partners through categorical grants, which represents a \$142 million increase above the FY 2021 enacted level. \$100 million of this increase is dedicated to the State and Local Air Quality Management and Tribal Air Quality Management programs to assist state governments and tribes in air monitoring, permitting, and pollution reduction efforts, specifically to accelerate immediate on-the-ground efforts to reduce greenhouse gases.

The Agency also recognizes the important role federal assistance provides in protecting water bodies of special ecological and economic importance to our Nation. Through EPA's Geographic Water programs, the Agency assists state and multi-state partners and tribes in managing and accelerating the restoration of the ecological health of these water bodies. In FY 2022, the Agency is requesting that the Geographic Programs be funded at \$578.3 million, which is a \$36.3 million increase over FY 2021 Enacted levels.

For more information and details about the FY 2022 President's Budget for the EPA, please see the [FY 2022 EPA Budget in Brief](#), which provides an overview of the Agency's proposed budget and activities, and the [FY 2022 Justification of Appropriation Estimates for Committee on Appropriations](#), known as the Congressional Justification (CJ), which includes detailed budget information for each of EPA's programs.

2. The President's budget proposes a 21.3 percent increase in discretionary funding for EPA's fiscal year 2022 budget in relation to the current, bipartisan-enacted amount of \$9.2 billion. Moreover, the OMB Letter outlining the President's budget request dedicates \$110 million in discretionary funding to "restore EPA's critical staff capacity and to rebuild programmatic capabilities that focus on protecting clean air, land, and water."
 - a. How much does EPA spend on staffing and how does the current budget request differ from the current amount EPA has budgeted for these purposes?

RESPONSE: The Agency estimates a payroll need in FY 2021 of \$2.37 billion and a payroll need of \$2.60 billion in the FY 2022 President's Budget. This increase supports the 2.7% federal civilian pay raise included in the President's Budget

The FY 2022 Budget serves as a critical inflection point to reverse the trend in recent years of a shrinking EPA workforce. Expanded capacity and growing the Agency is about achieving greater public health and environmental outcomes for the American people. Without increases in full-time equivalents (FTE) and resources across EPA programs, the Agency will struggle to meet the multiple environmental challenges facing the country today and in the future. The FY 2022 Budget supports payroll for 15,324 FTEs for EPA, an increase of more than 1,000 compared to the current level of 14,297.

For more information and details about the FY 2022 President's Budget for the EPA, please see the [FY 2022 EPA Budget in Brief](#), which provides an overview of the Agency's proposed budget and activities, and the [FY 2022 Justification of Appropriation Estimates for Committee on](#)

Appropriations, known as the Congressional Justification (CJ), which includes detailed budget information for each of EPA's programs.

- b. How much of this funding would be dedicated to hiring in the Headquarters offices versus those in the Regions?

RESPONSE: At a corporate level, EPA continues to develop and deploy management tools, such as the EPA Workforce Plan, the Diversity Dashboard, and the Workforce Demographic Dashboard, to assist EPA in ensuring the right staff with the appropriate skills are placed in the most suitable positions, providing valuable corporate-level data on workforce trends and needs. Once we have a FY 2022 appropriation in place, EPA will develop staffing targets as part of its operating plan. Hiring is specific and unique to each program's needs; accordingly, each EPA Program Office and Region works to develop individual hiring plans.

For more information and details about the FY 2022 President's Budget for the EPA, please see the **FY 2022 EPA Budget in Brief**, which provides an overview of the Agency's proposed budget and activities, and the **FY 2022 Justification of Appropriation Estimates for Committee on Appropriations**, known as the Congressional Justification (CJ), which includes detailed budget information for each of EPA's programs.

3. Based upon the letter from OMB outlining the President's budget request, the numbers don't seem to add up. Hopefully, you can help me get a better sense of what's going on here in this request for \$11.2 billion.
 - a. Were any programs cut and, if so, what were the funding and Full-Time Equivalent (FTE) cuts?

RESPONSE: After several years of proposed cuts and stagnation, the FY 2022 President's Budget for the EPA proposes the investments needed to advance EPA's mission across the board. The Budget boosts support to our state, local, and Tribal partners, increases support for national treasures like the Great Lakes and Chesapeake Bay, accelerates job-creating water infrastructure improvements, elevates environmental justice across the Agency, increases support for science, and importantly, makes sure all EPA offices have the operational budgets and workforces they need to deliver for the American people. If the President's Budget were to be enacted, no programs or FTE would be cut except for Water Quality Research and Support Grants.

- b. Does the President's budget consolidate any programs?

RESPONSE: As described on page 834 of the Congressional Justification, the budget does propose some consolidations to best manage and implement EPA programs.

For more information and details about the FY 2022 President's Budget for the EPA, please see the [FY 2022 EPA Budget in Brief](#), which provides an overview of the Agency's proposed budget and activities, and the [FY 2022 Justification of Appropriation Estimates for Committee on Appropriations](#), known as the Congressional Justification (CJ), which includes detailed budget information for each of EPA's programs.

- c. How much of the President's budget request is dedicated to any new programs, and how many staff are needed to operate these new programs?

RESPONSE: EPA has not proposed any "new program projects" in the budget; however, it includes paradigm shifts and envisions new and innovative applications of existing programs. The FY 2022 Budget and American Jobs Plan leverage existing programs at the EPA to improve the environmental and public health challenges facing our Nation, while creating good paying jobs to rebuild America's infrastructure and support U.S. manufacturing.

For more information and details about the FY 2022 President's Budget for the EPA, please see the [FY 2022 EPA Budget in Brief](#), which provides an overview of the Agency's proposed budget and activities, and the [FY 2022 Justification of Appropriation Estimates for Committee on Appropriations](#), known as the Congressional Justification (CJ), which includes detailed budget information for each of EPA's programs.

- d. What FTE levels are being proposed in fiscal year 2022?

RESPONSE: The FY 2022 Budget supports 15,324 FTEs for EPA, an increase of more than 1,000 compared to the current level of 14,297.

For more information and details about the FY 2022 President's Budget for the EPA, please see the [FY 2022 EPA Budget in Brief](#), which provides an overview of the Agency's proposed budget and activities, and the [FY 2022 Justification of Appropriation Estimates for Committee on Appropriations](#), known as the Congressional Justification (CJ), which includes detailed budget information for each of EPA's programs.

- e. Does EPA plan to submit legislative language to the committee to authorize all the new programs? If not, what statutory authorities are you relying on for all the new programs?

RESPONSE: The FY 2022 Budget and American Jobs Plan leverage existing programs at the EPA to improve the environmental and public health challenges facing our Nation, while creating good paying jobs to rebuild America's infrastructure and support U.S. manufacturing. In the FY 2022 Budget, EPA proposes legislative bill language within the Environmental Programs & Management account (pages 121-122) to provide new grant opportunities, including: (1) a competitive grant to reduce the disproportionate health impacts of environmental pollution in the environmental justice community; (2) an Environmental Justice Community Grant Program for grants to nonprofits to reduce the disproportionate health impacts of environmental pollution in the environmental justice community; (3) an Environmental Justice State Grant Program for grants to states to create or support state environmental justice programs; (4) a Tribal Environmental Justice Grant Program for grants to tribes or intertribal consortia to support tribal work to eliminate disproportionately adverse human health or environmental effects on environmental justice communities in Tribal and indigenous communities; and (5) a competitive Community-based Participatory Research Grant Program for grants to institutions of higher education to develop partnerships with community-based organizations to improve the health outcomes of residents and workers in environmental justice communities.

In the FY 2022 Budget, EPA proposes legislative bill language within the Environmental Programs & Management account. That language is found on pages 121-122 of the EPA FY 2022 Congressional Justification. Additional proposed legislative bill language changes related to EPA's Administrative Provisions are included on page 857 of the EPA FY 2022 Congressional Justification FY 2022.

4. What is the current amount of unobligated funds that EPA currently holds? What is the amount of money that EPA has that is obligated but unspent?

RESPONSE: Because spending continues throughout the fiscal year, estimates of unobligated funds are snapshots at any given point in time and subject to change. At the end of FY 2021, EPA will identify unobligated balances that remain available to be carried forward to the start of the next fiscal year. On a quarterly basis, EPA reports to Congress on the status of its balances of appropriations, as directed by the Consolidated Appropriations Act, 2021 (Public Law 116-20). The most recent report is attached.

5. The President's budget calls for spending \$936 million on establishing a new Accelerating Environmental and Economic Justice initiative and EJ40 program. But only is specific about spending for \$130 million of these dollars.
 - a. Under what statutory authority will these initiatives be established?

RESPONSE: The FY 2022 Budget includes more than \$930 million in funding across programs to launch a new Accelerating Environmental and Economic Justice initiative and cement environmental justice as a core feature of EPA's mission. Within the FY 2022 Budget, EPA proposes legislative bill language for \$140 million within the Environmental Programs & Management account to provide new grant opportunities. That language is found on pages 121-122.

- b. On what is the other \$806 million going to be spent?

RESPONSE: The FY 2022 Budget includes more than \$930 million in funding across programs to launch a new Accelerating Environmental and Economic Justice initiative and cement environmental justice as a core feature of EPA's mission.

The total investment includes \$287 million for the Environmental Justice program; \$293.4 million for the Superfund Remedial program; \$119.8 million for the Federal Support for Air Quality Management program; approximately \$66 million for the Compliance Monitoring and Enforcement programs; \$60 million for the Reducing Lead in Drinking Water grants; \$40 million for the Brownfields Projects grants; \$15 million for the Safe Water for Small and Disadvantaged Communities grants; \$11.3 million for the Tribal General Assistance Program grants; \$10 million for the Lead Testing in Schools program; \$10 million for the Public Water System Supervision grants; \$8 million for the Tribal Air Quality Management grant; \$5.5 million for the Superfund Emergency Response and Removal program; \$4.7 million for the Civil Rights program; \$2 million for the NEPA Implementation program; \$729 thousand for the Administrative Law program; and \$204 thousand for the Small Minority Business Assistance program.

6. The Agency's prior leadership implemented an agency-wide, process improvement system -- known as ELMS. At the end of fiscal year 2020, EPA reported that, under ELMS, it had made 500 process improvements; including a 45 percent reduction in the backlog of FOIA requests, a 33 percent improvement in the on-time completion of inspection reports and their delivery to regulated entities; and a reduction in backlogged, new permits by 150. In addition, ELMS is deployed at 83 percent of EPA.

- a. Will you commit to keeping the ELMS approach?

RESPONSE: EPA has been incorporating lean management practices into its business practices for several years spanning multiple Administrations. We are listening to input and advice from our career staff as we evaluate next steps for this system.

- b. If not, please detail what steps you will commit to taking to ensure there is no performance backsliding from ELMS gains, including inspection report completion and distribution, improvements in decision-making for Superfund cleanups, or timely processing of permits.

RESPONSE: EPA has been incorporating lean management practices into its business practices for several years spanning multiple Administrations. We are listening to input and advice from our career staff as we evaluate next steps for this system.

Science, Policy, and Regulation:

- 7. The Bipartisan Policy Center's Science for Policy Project issued a report on improving the use of science in regulatory policy. That report – which involved disparate but well-regarded professionals, such as former Clinton EPA official Dr. Lynn Goldman and Bush OMB official, John Graham -- drew a bright line between scientific judgements and policy recommendations, which are more subjective and it called “inherently political.”

- a. Do you agree with this expert, bipartisan report that science can only tell you what was validly discovered, but that policy makers use their own values to determine actual requirements based upon the law?

RESPONSE: Following the science and following the law have been core values at EPA since its creation over fifty years ago, and I am deeply committed to ensuring this EPA embraces and advances this tradition. It is critically important that all scientific assessments and conclusions are 100% free from political interference, and both President Biden and I have made clear that adhering to the principles of scientific integrity is core to our mission. Similarly, EPA understands that we must work within the mandates, authorities, and budgets provided to us by Congress. And we all understand that administrations can set their own policies and priorities, as long as they are based on sound, objective evidence and are consistent with the law.

- b. Would you commit to issuing guidelines to require EPA, when it develops regulatory policies, to explicitly differentiate between questions that involve scientific judgments and questions that involve judgments about economics, ethics, and other matters of policy?

RESPONSE: EPA is committed to upholding the principles of scientific integrity and implementing the recommendations of the task force created in President Biden's Memorandum on Restoring Trust in Government Through Scientific Integrity and Evidence-Based Policymaking. On May 20th, I issued a memo to all staff reaffirming our commitment to scientific integrity and began a process to assess and

update our practices to ensure evidence-based policymaking. Going forward, I will continue to issue guidance to EPA staff as needed to implement the Presidential Memorandum.

8. The same Bipartisan Policy Center's Science for Policy Project report states that political "decision-makers should never dictate what scientific studies should conclude, and they should base policy on a thorough review of all relevant research and the provisions of the relevant statutes."

- a. When it comes to science, do you agree that all relevant, high quality science should be reviewed?

RESPONSE: I agree. Policy development should be informed by all relevant, high quality scientific research and should always consider the authorities granted by the relevant statutes. Our commitment to adhere to the principles of scientific integrity will ensure that politics will never dictate scientific conclusions.

9. It is not unheard of for scientists to come to differing, reasoned conclusions after looking at the same data – in medicine, I believe this is called a second opinion.

- a. If the career scientists in two different offices at EPA – say the research office and the waste office -- arrive at completely different conclusions about the meaning of the same set of data; whose interpretation should be used by the Agency?

RESPONSE: Independent peer review plays a critical role in addressing interpretations of science. EPA has developed and implements a "differing scientific opinion policy" that recommends a progression of approaches that employees and managers can use to encourage the expression and satisfactory resolution of differing scientific opinions. That policy is available at <https://www.epa.gov/osa/approaches-expressing-and-resolving-differing-scientific-opinions>.

- b. If the matter cannot be settled at the career scientist and staff level, should you or the other political appointees decide that matter?

RESPONSE: When considering future regulatory policies, EPA will adhere to science and the law, including our obligations to protect public health under the statutes EPA implements. Furthermore, and as explained above, rigorous analysis and the frank expression of scientific views is a legitimate and necessary aspect of the scientific endeavor. Challenging ideas and assumptions guards against inadequate science, flawed analysis, and insufficient evidence. EPA has developed and implements a "differing scientific opinion policy" that recommends a progression of approaches that employees and managers can use to

encourage the expression and satisfactory resolution of differing scientific opinions. That policy is available at <https://www.epa.gov/osa/approaches-expressing-and-resolving-differing-scientific-opinions>.

10. In a recently proposed rule implementing the American Innovation and Manufacturing (AIM) Act, EPA proposed phasedown of hydrofluorocarbons (HFCs). The cost-benefit analysis for this rule used so-called social cost of HFCs “consistent” with the Administration’s interim guidance on the use of social cost of carbon estimates.

- a. A February 2021 Technical Brief by the Electric Power Research Institute found “fundamental technical issues that affect the scientific reliability” of the social cost estimates use by the Federal government. The review also found “fundamental technical issues that affect the scientific reliability of estimated climate benefits and net benefit calculations.”

Given that scientific reliability and robustness are essential for public confidence, was the development of the social cost of HFCs methodology subject to outside scientific review and public comment? If so, please explain how.

- b. Please explain how the Agency developed the social cost of HFCs, referenced in the draft Regulatory Impact Analysis of the proposed rule, including all methodologies and modeling used.
- c. Was the social cost of HFCs estimated for domestic impacts? If so, what are the domestic benefits calculated and if not, will EPA develop estimates of domestic social benefits to assist full evaluation of the proposed rule?
- d. Given the Administration’s interim social cost of carbon guidance has not been subject to a transparent, thorough, public review, how does using this interim methodology meet EPA’s information quality standards?

RESPONSE: The social cost of HFCs (SC-HFC) estimates were developed using methodologies that are consistent with the methodology underlying the social cost of carbon, methane, and nitrous oxide estimates (SC-CO₂, SC-CH₄, and SC-N₂O) presented in the *Technical Support Document: Social Cost of Carbon, Methane, and Nitrous Oxide Interim Estimates under Executive Order 13990* (IWG 2021¹). These methods were developed over many years, using a transparent process, peer-reviewed methodologies, the best science available at the time of that process, and with input from the public. In particular, the approach used for

¹ Interagency Working Group on the Social Cost of Greenhouse Gases (IWG). 2021. Technical Support Document: Social Cost of Carbon, Methane, and Nitrous Oxide Interim Estimates under Executive Order 13990. United States Government. Available at: https://www.whitehouse.gov/wp-content/uploads/2021/02/TechnicalSupportDocument_SocialCostofCarbonMethaneNitrousOxide.pdf.

developing the SC-HFC estimates used in the Draft Regulatory Impact Analysis (RIA) mirrors that of the peer-reviewed SC-CH₄ and SC-N₂O estimates (Marten et al. 2015², IWG 2016³), but applied to HFCs based on data published as part of the IPCC's assessment reports. The modeling approach that extends the IWG SC-CO₂ methodology to non-CO₂ GHGs, has undergone multiple stages of peer review and estimates using this non-CO₂ methodology in regulatory analysis have been subject to public comment. The Marten et al. (2015) estimates underwent a standard double-blind peer review process prior to journal publication. EPA then sought additional external peer review of technical issues associated with its application to regulatory analysis. Following the completion of the independent external peer review of the application of the Marten et al. (2015) estimates, EPA began using the estimates in the primary benefit-cost analysis calculations and tables for a number of proposed rulemakings in 2015, and considered the public comments received before using them in final regulatory analyses in 2016. OMB has determined that the use of this methodology is consistent with the OMB's guidelines for conducting peer review and regulatory analysis.

EPA has invited the public to provide comment and data that would inform various analytic matters, including the use and application of the SC-HFC estimates in the Draft RIA. The Draft RIA was made available in the docket for the rule when the proposed rule was published in the *Federal Register* on May 19, 2021 and is open for public comment for 45 days. Additionally, the Draft RIA was published on the [EPA website](#). EPA will consider all public comments received, including those on SC-HFCs.

11. Section 103(I)(2) of the Consolidated Appropriations Act (Public Law 116-260), requires EPA to make any petition for technology transition subject to a negotiated rulemaking. If EPA declines this negotiated rulemaking, EPA must state the reasons for it.

- a. Has EPA received any petitions under section 103(I)(2)?

RESPONSE: The AIM Act includes provisions to support industry's transition to next-generation technologies. Subsection (i) of the AIM Act, entitled "Technology Transitions," provides that a "person may petition

² Marten, A.L., Kopits, E.A., Griffiths, C.W., Newbold, S.C., and A. Wolverton. 2015. Incremental CH₄ and N₂O Mitigation Benefits Consistent with the U.S. Government's SC-CO₂ Estimates. *Climate Policy* 15(2): 272-298.

³ Interagency Working Group on the Social Cost of Greenhouse Gases (IWG). 2016. Addendum to Technical Support Document on Social Cost of Carbon for Regulatory Impact Analysis under Executive Order 12866: Application of the Methodology to Estimate the Social Cost of Methane and the Social Cost of Nitrous Oxide. August. United States Government. Available at: <https://www.whitehouse.gov/omb/information-regulatory-affairs/regulatory-matters/#scghgs>.

the Administrator to promulgate a rule ... for the restriction on use of a regulated substance in a sector or subsector.” EPA has established a docket for petitions at www.regulations.gov, under Docket ID No. EPA-HQ-OAR-2021-0289. Submitted petitions under subsection (i) of the AIM Act and other relevant material will be posted in this docket and accessible to the public.

EPA has received ten AIM Act petitions as of June 14. The first petitions were received on April 13, 2021. The Agency is considering the petitions and additional information received to support our evaluation of those petitions. More information on these petitions is available at <https://www.epa.gov/climate-hfcs-reduction/petitions-under-aim-act>.

- b. Has EPA conducted a negotiated rulemaking procedure, as required by statute, or has it declined to use this procedure?

RESPONSE: Consistent with the requirements in the AIM Act, before proposing a rule that would restrict, fully, partially, or on a graduated schedule, the use of a regulated substance in the sector or subsector in which the regulated substance is used consistent with subsection (i), we will consider use of a negotiated rulemaking. If we do not use a negotiated rulemaking, also consistent with statute, we will publish the explanation of that decision.

- c. If EPA has declined to use this procedure, please state the reasons for this decision.

RESPONSE: To date, EPA has not initiated a rulemaking under subsection (i).

- d. Is EPA aware of dissenting opinions on the subject of any petitions it has received under section 103?

RESPONSE: EPA has received a number of letters supporting various petitions and interested stakeholders have submitted information to the docket. EPA is reviewing that information.

- e. In issuing any rules under Section 103, how does EPA differentiate and value “consumer costs” from “affordability for residential and small business consumers”?

RESPONSE: In carrying out a rulemaking or making a determination to grant or deny a petition submitted under subsection (i), the statute states that EPA shall, to the extent practicable, factor in criteria that include technological achievability, commercial demands, affordability for

residential and small business consumers, safety, consumer costs, building codes, appliance efficiency standards, contractor training costs, and other relevant factors, including the quantities of regulated substances available from reclaiming, prior production, or prior import. EPA has not granted or denied a petition or initiated a rulemaking to date, but EPA will act consistent with the statute as it moves forward to implement the AIM Act.

Carbon Capture and Sequestration:

12. The Biden-Harris Administration’s budget proposal letter mentions carbon sequestration only one time: in relation to Agriculture Department conservation planning to “verify carbon sequestration” on farm and federal lands. Is the Biden-Harris Administration committed to Carbon Capture, Utilization, and Storage deployment in the industrial sector?

RESPONSE: In line with the bipartisan SCALE Act, the Administration supports large-scale sequestration efforts that leverage the best science and prioritize community engagement. To accelerate responsible carbon capture deployment and ensure permanent storage, the President’s plan reforms and expands the bipartisan Section 45Q tax credit, making it direct pay and easier to use for hard-to-decarbonize industrial applications, direct air capture, and retrofits of existing power plants.

13. Section 102 of subtitle S of the Fiscal Year 2021 Omnibus and COVID Relief and Response Act – now Public Law 116-260 – contains many provisions to support the development and deployment of carbon capture, utilization, and storage. EPA has many statutory obligations in this section that are supposed to be done within a defined time, including under Clean Air Act section 103.

- a. Since the Administration’s budget letter does not call for funding for this activity, does this mean the Administration does not plan to use its Federal funding to implement it?

RESPONSE: The EPA is committed to fulfilling its statutory obligations related to carbon capture, utilization and sequestration under Section 102 of subtitle S of Public Law 116-260 (the USE IT Act), the Clean Air Act, the Safe Drinking Water Act, and other relevant statutes.

- b. If EPA is attempting to comply with its legal requirements, has it met its deadlines or is there any reasonable basis to conclude it will not produce what the law asks within the allotted time?

RESPONSE: EPA has been working diligently to fulfill its Congressional mandates under the USE IT Act. For example, EPA has supported the development of a Council on Environmental Quality Report to Congress

on carbon capture, utilization and sequestration. EPA will continue to ensure that it fulfills its statutory obligations related to carbon capture, utilization and sequestration under the USE IT Act, the Clean Air Act, the Safe Drinking Water Act, and other relevant statutes.

- c. What is the status of EPA establishing an “efficient, orderly, and responsible” permitting process under its statutes for carbon capture, utilization, and storage, projects?

RESPONSE: The Administration supports large-scale carbon capture, utilization, and sequestration efforts that leverage the best science and prioritize community engagement. EPA has a regulatory framework under Safe Drinking Water Act and Clean Air Act authorities to ensure the long-term, safe, and secure geologic sequestration of CO₂. When considering future regulatory policies and other programs and policies related to CCUS, EPA will adhere to science and the law—including our obligations under the Clean Air Act, the Safe Drinking Water Act, and other statutes. EPA also will consider relevant market trends and technological innovations, including advances in CCUS technology.

Drinking Water: Lead and Copper Rule Lead Pipe Replacement:

14. EPA has proposed delaying the effective and compliance dates of the long-term revisions to the Lead and Copper Rule to seek additional public comment.

- a. EPA had been discussing this rule update with at-risk communities, drinking water scientists, and other interested members of the public since 2010. What specific pieces of information does EPA now need from the same people it has been talking to the last decade?

RESPONSE: EPA believes that it important to seek further public input on the lead and copper rule revisions, particularly from communities that are most at-risk of exposure to lead in drinking water. For example, in the two years preceding promulgation of the final Lead and Copper Rule Revisions, EPA did not conduct any targeted meetings to get input on the proposed revisions from communities historically underserved by, or subject to discrimination in, federal policies and programs, or those communities that have been significantly affected by lead in drinking water. EPA is committed to following the best science to address lead in the nation’s drinking water and will take the appropriate time to review the revised lead and copper rule and make sure communities that have been impacted the most are protected.

- b. What safeguards are in place to prevent any tragedy from lead exceedances in drinking water occurring because of this delay?

RESPONSE: EPA is committed to following the best science to address lead in the nation’s drinking water and will take the appropriate time to review the revised lead and copper rule and make sure communities that have been impacted the most are protected. During EPA’s review, the Agency will continue to provide oversight and work with states to require water systems with high lead levels to take actions including corrosion control treatment, public education, and lead service line replacement to reduce drinking water lead exposure.

15. Ownership of an individual service line is divided between a utility, in most cases one that is publicly owned, and a private property owner who owns the portion from the property line to the building inlet. The Biden-Harris plan proposes spending \$45 billion to “replace 100 percent of the nation’s lead pipes and service lines.”

- a. Does this plan call for replacing only the utility-owned portion of a lead service line, the privately owned portion of a lead service line, or both utility and privately owned lines?

RESPONSE: The Biden-Harris Administration is committed to eliminating the nation’s lead service lines and pipes through transformational and historic investments in EPA’s water financing programs. Complete service line replacement is an eligible expense within EPA’s Drinking Water State Revolving Fund program, regardless of pipe material and ownership of the property on which the service line is located. EPA looks forward to working with Congress and in coordination with states, tribes, and water systems to achieve the goals of improving public health and safeguarding the environment, including how to address the issue you have identified.

- b. Since lead piping can extend into buildings, does the plan cover replacement of lead plumbing inside the walls of a privately-owned residence?

RESPONSE: The Biden-Harris Administration is committed to eliminating the nation’s lead service lines and pipes through transformational and historic investments in EPA’s water financing programs. Complete service line replacement is an eligible expense within EPA’s Drinking Water State Revolving Fund program, regardless of pipe material and ownership of the property on which the service line is located. EPA looks forward to working with Congress and in coordination with states, tribes, and water systems to achieve the goals of improving public health and safeguarding the environment, including how to address the issue you have identified.

- c. Does the Biden-Harris plan employ a means test to make wealthy individuals pay for replacement of their own pipes?

RESPONSE: EPA looks forward to working with Congress and in coordination with states, tribes, and water systems to achieve the goals of improving public health and safeguarding the environment, including how to address the issue you have identified.

16. Is it practical to replace 100 percent of the nation’s lead service lines without the cooperation and consent of every individual property owner who has a lead service line on his or her property? If not, how does the Biden-Harris plan foresee compel this cooperation on private property?

RESPONSE: The American Jobs Plan proposes a \$111 billion investment in water infrastructure, including – as you note – a \$45 billion investment to replace 100% of lead service lines and pipes through EPA’s Drinking Water State Revolving Fund and Water Infrastructure Improvements for the Nation (WIIN) Act grants. EPA looks forward to working with Congress on how to achieve these goals.

- a. Would compelling a party to make this change constitute a “taking” under the U.S. Constitution?

RESPONSE: EPA looks forward to working with Congress and in coordination with states, tribes, and water systems to achieve the goals of improving public health and safeguarding the environment.

- b. What is the legal pathway for a local water utility to replace a privately-owned lead service if the property owner does not consent to the replacement?

RESPONSE: EPA looks forward to working with Congress and in coordination with states, tribes, and water systems to achieve the goals of improving public health and safeguarding the environment.

- c. Is it the Administration’s position that it is appropriate for local government officials to enter and disturb private property for the purpose of replacing a privately owned lead service line without the consent of the property owner?

RESPONSE: EPA looks forward to working with Congress and in coordination with states, tribes, and water systems to achieve the goals of improving public health and safeguarding the environment.

17. With regard to the position of the Biden-Harris Administration concerning private property:

- a. Should the private property owner or the community at large be responsible for the cost of maintenance?

RESPONSE: EPA looks forward to working with Congress on how to achieve the goals of the American Jobs Plan in coordination with states and water systems.

- b. Is it appropriate for the federal government – that is, taxpayers – to pay for the cost of improvements?

RESPONSE: EPA looks forward to working with Congress on how to achieve the goals of the American Jobs Plan in coordination with states and water systems.

- c. Is it appropriate for local water utilities – that is, ratepayers – to pay for the cost of replacing a lead service line on private property?

RESPONSE: EPA looks forward to working with Congress on how to achieve the goals of the American Jobs Plan in coordination with states and water systems.

Brownfields:

- 18. The President’s proposed budget request letter announces that it calls for an increase in Brownfields funding but does not actually say how much of an increase it is proposing.

- a. How much does the President’s proposed budget contain for the two major Brownfields spending accounts – Sections 104(k) and 128?

RESPONSE: The President’s Fiscal Year 2022 budget proposes \$130,982,000 to carry out section 104(k) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA), including grants, interagency agreements, and associated program support costs. The budget proposes \$46,195,000 to carry out CERCLA section 128(a).

- b. How many dollars remain unused or unspent, dating back 3 years? Please give me a number for each category.

RESPONSE: Most of the brownfields cooperative agreements awarded under CERCLA section 104(k) have a three to five-year period of performance. The Agency generally sees most drawdowns occurring in the second and third year of brownfields cooperative agreements. See below:

Brownfields Projects (79):

FY	Sum of unspent funds on open cooperative agreements
2018	\$31,682,503
2019	\$54,561,477
2020	\$78,042,121
Total	\$164,286,101

Brownfields Categorical (24):

FY	Sum of unspent funds on open cooperative agreements
2018	\$630,836
2019	\$3,125,817
2020	\$23,977,589
Total	\$27,734,242

c. What is the typical number of applicants in each fiscal year, and how many are typically awarded grantees each year?

RESPONSE: EPA typically receives approximately 470 applications and awards approximately 170 grants.

19. In popular, competitive grant programs, it is extremely rare that every entity applying for money receive funding or qualifies.

a. Typically, how many Brownfields grant applications did not receive an award?

RESPONSE: Typically, 65% of the applications received are not selected for an award. In FY21, 299 of the 471 applications were not selected for an award.

b. Of number, how many applicants did not receive a grant based on a lack of funding, but rather based upon their application itself, including for merit or ability to meet the program criteria?

RESPONSE: In FY21, 299 applicants were not selected for an award. Of those, approximately 15% of the applications (73) were not selected based on the application itself.

- **5% of the applications (23) failed to meet the threshold criteria outlined in the solicitations.**

- 11% of the applications (50) fell below the natural break in scores. While each year a natural break varies, this year had a natural break of 86% or less of the available points.
- The remaining 226 were of quality that would warrant an award if additional funding were available.

Perfluorinated Chemicals:

20. During the week of April 22, 2021, the “PFAS Master List PFAS Substances (Version 2)” on EPA’s website stated that the total number of PFAS chemicals listed as part of this class numbered: 9,252.

- a. What is the current status of EPA’s work on PFAS and what structure is envisioned to try to process all this data about some many different chemicals in a timely manner?

RESPONSE: EPA is committed to advancing science, improving data, and using its authority to address PFAS pollution and protect public health and the environment, in coordination with our federal, state, Tribal, and local partners. The latest information from EPA on PFAS can be found at www.epa.gov/pfas.

In late April 2021, EPA created a council of senior EPA career officials from across the Agency to identify and strategize the best way to use EPA’s authorities, expertise, and partnerships to mitigate and reduce PFAS pollution and protect public health and the environment. This newly established EPA Council on PFAS will collaborate on cross-cutting strategies; advance new science; develop coordinated policies, regulations, and communications; and engage with affected states, tribes, communities, and other stakeholders. To address the PFAS challenge and meet the needs of our partners and our communities across the United States, the Administrator directed the Council to develop a multi-year strategy to deliver critical public health protections to the American public.

- b. Will you commit to appropriately communicate risk with the public?

RESPONSE: Communicating risk to the public is a critical part of EPA’s mission to protect human health and the environment and is especially important on a complex issue such as PFAS. EPA’s newly established EPA Council on PFAS will collaborate on cross-cutting strategies; advance new science; develop coordinated policies, regulations, and communications; and engage with affected states, tribes, communities and other stakeholders. The Agency is committed to ensuring that it carries out effective risk communication on PFAS by sharing meaningful,

understandable, and actionable information with communities affected by PFAS contamination.

21. Had the Biden-Harris Administration not halted the Advanced Notice of Proposed Rulemaking on designating PFOA and PFOS as hazardous substances under the Comprehensive Environmental Response, Compensation, and Liability Act, the comment period would have already opened and closed.

- a. Does the Administration support the designation of one or more PFAS as hazardous substances?

RESPONSE: EPA is looking at various types of scientific information related to designating certain PFAS, specifically PFOA and PFOS, as CERCLA hazardous substances. This information includes the most up to date chemical and physical characteristics, toxicity and kinetics, environmental prevalence, and manufacturing and use data.

- b. What is the status of this Advanced Proposed Rulemaking?

RESPONSE: On January 14, 2021, former EPA Administrator Wheeler signed an advance notice of proposed rulemaking (ANPRM) seeking comment on potentially designating PFOA and PFOS as hazardous substances. The ANPRM was signed and posted on EPA’s website, but not published in the *Federal Register*. It is undergoing review pursuant to the January 20, 2021, White House memorandum, “Regulatory Freeze Pending Review.”

As an important part of EPA’s work to address PFAS pollution, EPA is considering options for designating PFOA and PFOS as CERCLA hazardous substances and is committed to protective steps guided by science and law.

- c. Does the Administration have alternative plans for addressing private sector PFOA and PFOS cleanups other than through CERCLA?

RESPONSE: EPA is committed to advancing science, improving data, and using its authority to address PFAS pollution and protect public health and the environment. EPA recently established an EPA Council on PFAS to strategize the best way to use EPA’s authorities, expertise, and partnerships to mitigate and reduce PFAS pollution and protect public health and the environment. The Council has been tasked to make initial recommendations within 100 days of its establishment. These recommendations will include an evaluation of EPA’s statutory authorities to determine which the agency can apply most effectively to address private-sector PFOA and PFOS cleanups.

22. The President's budget request provides approximately \$75 million for scientific studies to inform regulatory determinations for PFAS under Superfund as well as settling a maximum contaminant level under the Safe Drinking Water Act. In addition, this funding would also provide technical assistance grants for State and local governments dealing with PFAS contamination.

- a. How many chemicals in the PFAS class are meant to be covered by this budget request?

RESPONSE: The additional investment of \$75 million in the FY22 President's Budget request is proposed to address PFAS generally. EPA's federal, state, Tribal, and local partners are looking to EPA for resources, research grants, technical assistance, and regulatory clarity on these so-called "forever chemicals." As part of EPA's commitment to addressing PFAS pollution, the FY 2022 President's budget request provides a more than \$10 million increase for PFAS work. This \$75 million investment will accelerate toxicity studies and fund research to inform the regulatory developments of designating PFAS as hazardous substances while setting enforceable limits for PFAS under the Safe Drinking Water Act. Additional funds for technical assistance grants have also been set aside for state and local governments to deal with PFAS contamination in their communities. To provide the technical assistance needed to our partners, we have established a new EPA Council on PFAS composed of senior EPA career officials to strategize the best ways to use EPA's authorities, expertise, and partnerships to mitigate and reduce PFAS pollution and protect public health and the environment. The Council will collaborate on cross-cutting strategies; advance new science; develop coordinated policies, regulations, and communications; and engage with affected states, tribes, communities, and other stakeholders.

- b. When the budget uses the term "PFAS" in terms of regulatory actions, does it mean 9,252 chemicals, 2 chemicals: PFOS and PFOA, or a different number? Please be specific as to how much is going to each of these three areas: Superfund determination, drinking water regulation, and State technical assistance.

RESPONSE: As noted above, the additional investment of \$75 million in the FY 2022 President's budget request is proposed to address PFAS generally. Over the past few years, science has progressed rapidly, and EPA will move forward with actions that are based on this new science and a better understanding of the complex challenges so many communities are facing. As EPA moves forward with regulatory actions to address PFAS pollution under the agency's environmental statutes, EPA will make decisions about the PFAS it regulates by adhering to

science and the law. For example, in February 2021, EPA made final determinations to regulate PFOA and PFOS under the Safe Drinking Water Act (SDWA). At the same time, EPA outlined avenues that the agency is considering to further evaluate additional PFAS chemicals under SDWA and provide flexibility for the agency to consider groups of PFAS as supported by the best-available science.

The Toxic Substances Control Act (TSCA) and New Chemicals:

23. TSCA section 5 requires EPA within 90 days to review and make determinations on “new” chemicals and “new uses” of existing chemicals for which a notification has been submitted to EPA. Section 5 permits EPA the opportunity to extend the 90-day deadline for no more than another 90 days to complete its review.
- a. On January 20, 2021, how many section 5 notices constituted the “backlog” of notices that had not been fully processed?
 - b. How many section 5 notices currently constitute the “backlog” of notices that had not been fully processed?

RESPONSE: “Backlog” is not a defined term in TSCA section 5 or EPA’s new chemical regulations. The TSCA New Chemicals program workload is better characterized by the total number of cases in queue and a description of where those cases are at in the review process. EPA is transparent about the status of new chemical reviews by providing monthly updates on its website: <https://www.epa.gov/reviewing-new-chemicals-under-toxic-substances-control-act-tsca/statistics-new-chemicals-review>. The term “backlog” has been used in different ways at different times. For example, in August 2017, it was announced that the “backlog” was eliminated, although there were over 300 cases still under review (<https://archive.epa.gov/epa/newsreleases/epa-eliminates-new-chemical-backlog-announces-improvements-new-chemical-safety-reviews.html>). In reality, the total number of cases under review by EPA at any given time will fluctuate based on the number of incoming submissions.

On January 20, 2021, there were 203 cases under review for more than 90 days. For all of those cases, however, the applicable review period under TSCA was suspended at the request of the submitter pursuant to 40 CFR 720.75. These suspensions allow additional time for submitters to engage with EPA to review EPA’s initial risk assessment findings, ask questions, and develop and submit additional information (e.g., monitoring data, studies, etc.) for the Agency’s consideration prior to determination.

As a general matter, EPA remains committed to meeting statutory deadlines for review and determinations on new chemicals submissions under TSCA section 5 and will continue to engage with submitters to

ensure the agency is moving as expeditiously as possible to come to a resolution on their submissions.

- c. How many section 5 notices have not been fully processed within 90 days?
- d. How many section 5 notices have not been fully processed within 180 days?

RESPONSE: As of May 16, 2021, EPA had 240 notices that were submitted over 90 days ago (and of this total, there are 189 applications that were submitted more than 180 days earlier). Again, however, none of these notices are outside the applicable review period. EPA's regulations at 40 CFR 720.75(b) allow submitters to request a voluntary suspension of the review period, and submitters often take advantage of this option in order to develop additional data or to continue discussions about their notice with EPA.

- e. How many user fees have been refunded this year because EPA did not meet the above-mentioned deadlines in 2021?

RESPONSE: To date, EPA has not issued a refund for failing to make a determination on a notice by the end of the applicable review period. Again, EPA regularly grants a suspension of the review period requested by the submitter, which effectively puts the 90-day review period on "pause" to allow the submitter to provide additional information to EPA regarding the initial submission or to address risk identified by EPA after the initial risk assessment is completed. When the applicable review period has been suspended, the lack of a determination within 90 calendar days does not trigger a fee refund under TSCA section 5(a)(4).

- f. How many Section 5 notices have been submitted to EPA since January 20, 2021?

RESPONSE: Between January 20, 2021 and June 14, 2021, there have been 131 TSCA Section 5 notices (Premanufacture Notices, Significant New Use Notices, and Microbial Commercial Activity Notices) submitted to EPA.

- g. How many notices have required action under TSCA section 5(e) or 5(f)?

RESPONSE: For notices received between January 20, 2021 and June 14, 2021, the majority are still under EPA review and are in different stages of the risk assessment and/or risk management process. For two of the notices, EPA has signed and sent section 5(e) consent orders to the submitters and is awaiting company signature.

- h. Of those notices submitted on or after January 20, 2021 to EPA under section 5, how many new chemicals or new uses of existing chemicals proceeded to

market under TSCA section 5(a)(3)(C) and, separately, under TSCA section 5(e)?

RESPONSE: For notices received between January 20, 2021 and June 14, 2021, EPA has received one notice of commencement (NOC) for a chemical substance that received a TSCA section 5(a)(3)(C) determination.

Litigation Transparency:

24. Administrator Regan, the EPA is frequently subject to lawsuits, many of which are settled. In just the first 100 days of the Biden Administration, EPA has received more than 40 [complaints and petitions for review](#). These include citizen suits for failing to perform a non-discretionary statutory duty.

- a. What will be your approach to ensuring transparency and public participation in settlement agreements?

RESPONSE: The EPA's mission is to protect human health and the environment, a hugely important task that requires public trust and accountability. EPA is committed to operating in a transparent manner as we restore integrity and public trust in the Agency's operations and decision-making. The Agency will continue to follow all statutory requirements in this regard such as Clean Air Act section 113(g). In addition, consistent with President Biden's Executive Orders, the Agency is evaluating a directive from the last Administration on this topic.

- b. Will you commit to providing the public notice and an opportunity to comment on any proposed settlement agreements?

RESPONSE: The EPA's mission is to protect human health and the environment, a hugely important task that requires public trust and accountability. EPA is committed to operating in a transparent manner as we restore integrity and public trust in the Agency's operations and decision-making. The Agency will continue to follow all statutory requirements in this regard such as Clean Air Act section 113(g). In addition, consistent with President Biden's Executive Orders, the Agency is evaluating a directive from the last Administration on this topic.

Wood Heaters:

25. I have heard from many smaller manufacturers that Office of Enforcement and Compliance Assurance (OECA) is experiencing significant delays in issuing new certifications or renewing existing certifications, causing a huge disruption in these businesses ability to plan for the future. In addition, the delay impacts product availability for a new tax credit as well as woodstove changeout programs.

- a. Why is the agency not issuing new certifications at this time?

RESPONSE: EPA is committed to ensuring that new wood stoves and other wood burning devices comply with Clean Air Act standards to reduce health-harming pollution. In light of information from states and other stakeholders provided in late 2020 and early 2021, the Agency is taking a number of actions to address concerns about the methods and manner in which new wood stoves are being tested for compliance with the 2015 New Source Performance Standards under the Clean Air Act.

EPA continues to engage with stakeholders and prioritize certifications. These actions will take time, but EPA is working hard to issue new certificates and renewals for wood stoves that comply with Clean Air Act standards as quickly as possible.

- b. What are your plans for improving the workflow at OECA?

RESPONSE: EPA understands the urgency of keeping new applications and renewals moving and has devoted additional resources to diligently and expeditiously reviewing new requests and renewals. Given the information provided from states and other stakeholders, EPA is carefully reviewing both current and new Certifications of Compliance and will take actions as appropriate.

Open-Door with USDA:

26. You have previously stressed the need to coordinate on climate policies with other departments like the U.S. Department of Agriculture. You have also stated you have an ‘open door policy.’

- a. Do you commit that you will maintain this philosophy?

RESPONSE: Across its programs, EPA coordinates with other departments, as appropriate, and provides for public participation in decision-making. This requires not only that EPA remain open and accessible to those representing all points of view, but also that EPA offices responsible for decisions take affirmative steps to solicit the views of those who will be affected by these decisions. This includes communities of color; Native Americans; rural communities; low-income communities; small businesses; local governments, Tribes, and states; and those who have been historically underrepresented in EPA decision-making. Consistent with the goals laid out by President Biden in E.O. 13985, EPA will also continually assess whether, and to what extent, our approach to public transparency perpetuates barriers to opportunities and benefits to people of color and other underserved groups, with a goal of delivering resources, benefits, and opportunities equitably to all. EPA

will not accord privileged status to any special interest, nor will it accept any recommendation or proposal without careful, critical, and independent examination.

- b. Have you directed all EPA Program Offices to adopt a similar “open door policy” with, and to consider the views of, all U.S. food and agriculture stakeholders, of which supply our nation with domestic food and fiber?

RESPONSE: Across its programs, EPA coordinates with other departments, as appropriate, and provides for public participation in decision-making. This requires not only that EPA remain open and accessible to those representing all points of view, but also that EPA offices responsible for decisions take affirmative steps to solicit the views of those who will be affected by these decisions. This includes communities of color; Native Americans; rural communities; low-income communities; small businesses; local governments, Tribes, and states; and those who have been historically underrepresented in EPA decision-making. Consistent with the goals laid out by President Biden in E.O. 13985, EPA will also continually assess whether, and to what extent, our approach to public transparency perpetuates barriers to opportunities and benefits to people of color and other underserved groups, with a goal of delivering resources, benefits, and opportunities equitably to all. EPA will not accord privileged status to any special interest, nor will it accept any recommendation or proposal without careful, critical, and independent examination.

The Honorable Markwayne Mullin (R-OK)

1. Will the EPA go back to the Obama-era rule of double regulation of both methane and VOCs?

RESPONSE: On June 30, 2021 President Biden signed S.J. Res. 14/H.J. Res. 34 (“joint resolution”), which restores robust Clean Air Act pollution standards for the oil and gas sector, protecting American communities. The resolution also clears the pathway for EPA to evaluate opportunities to promulgate even more protective standards under section 111 of the Clean Air Act to address dangerous methane and other pollution from both new and existing sources across the sector.

2. If EPA decides to revise the rule, will you commit to first making a “Significant Contribution Finding” so the public knows this is actually needed?

RESPONSE: When considering regulatory policies under the Clean Air Act, EPA will adhere to science and the law.

3. Will you commit to not regulating other sources – outside of oil and gas - without making a new “Significant Contribution Finding” for each specific case?

RESPONSE: When considering regulatory policies under the Clean Air Act, EPA will adhere to science and the law.

4. We can both agree that excess methane is harmful to the atmosphere. Those gas producers would much rather see their product in a pipeline than being flared. So wouldn't you agree that pipelines help reduce greenhouse gas emissions because the natural gas has somewhere productive to go?

RESPONSE: As directed by Executive Order 13990, EPA is reviewing the final rule titled “Oil and Natural Gas Sector: Emission Standards for New, Reconstructed, and Modified Sources Reconsideration.” In reviewing the rule, EPA is considering how states and the industry have addressed methane emissions at oil and gas operations, including natural gas pipelines, as well as new technologies to capture methane. EPA has opened a public docket for pre-proposal comments and held public listening sessions on June 15-17, 2021.

The Honorable Richard Hudson (R-NC)

1. Mr. Administrator, welcome and, again, congratulations. I am happy for you and your family with this opportunity that you have been given by the President. This is an enormous budget request being made by the Administration. But, it's not just the numbers; it's that the numbers don't quite add up and the details to help it make sense are lacking. I know you promised congressional cooperation and transparency in your confirmation hearing. I assume you still do, yes?

RESPONSE: I remain committed to conducting the Agency's work in a transparent manner as we restore scientific integrity and evidence-based policymaking throughout EPA. As we chart a path forward, I commit to taking action in partnership with Congress.

For more information and details about the FY 2022 President's Budget for the EPA, please see the FY 2022 EPA Budget in Brief, which provides an overview of the Agency's proposed budget and activities, and the FY 2022 Justification of Appropriation Estimates for Committee on Appropriations, known as the Congressional Justification (CJ), which includes detailed budget information for each of EPA's programs.

Last week, you acknowledged to the House Appropriations Committee that the Trump Administration got some things right at EPA. I think one of the biggest ones was its work on cleaning up hazardous waste sites, many of which were within range of Environmental Justice communities. More impressive to me was their metric for accomplishment was not some euphemism claiming that EPA was close to being

done, but rather, EPA used the most common sense, but difficult to attain criteria – that the site was cleaned up and being removed from the National Priorities List.

In four years, the Trump EPA delisted the most amount of Superfund sites of any Administration in the last 20 years. For those watching, I want that to sink in. More meaningful cleanup occurred, and communities' environment restored, than in the last two decades.

I hope we can build on that urgency and recent cleanup success not only in Superfund, but in corrective actions under the Solid Waste Disposal Act. States have generally been a successful lead in these areas. I am, however, particularly concerned about an EJ community in North Carolina that has been waiting for an abandoned and festering hazardous waste site to be cleaned for decades under Subtitle C. I know these cleanups don't happen overnight and recent talks with your former colleagues at DEQ give me confidence that things are moving along.

- a. Mr. Administrator, do you support state leads on environmental cleanup and enforcement?

RESPONSE: Yes. As a result of my four years as DEQ Secretary, I know firsthand how critical the federal, state, and local partnership is to delivering results on behalf of our communities. EPA looks forward to deepening the state and federal partnership, including on environmental cleanup and enforcement.

- b. What do you think EPA should do when corrective actions languish from prolonged site inactivity in a state?

RESPONSE: My DEQ role afforded me a front row seat to the importance of the federal and state relationship – and what a difference transparency, respect, and an open dialogue can make. Investing in communities to make them cleaner, healthier, stronger, and more economically competitive is one of our most important objectives at EPA, and the Agency looks forward to working with North Carolinians and with your office to ensure that site cleanups progress toward this outcome.

2. Finally, last week you told the House Appropriations Committee that, on PFAS, you think more scientific evaluation and quantification of PFAS is necessary before issuing enforceable Federal regulations; but also, to help state cleanups. Based upon my district's experience with GenX and a recognition that PFAS are a diverse class of thousands of chemicals – some of which are more locally than nationally concentrated, I am glad the budget request is focused on additional health effects research. I believe that's what is needed and urge you to continue building on the work of the previous Administration and take a scientific and data-driven approach to understanding and recommending appropriate treatment efforts.

RESPONSE: Coming from North Carolina, I've seen first-hand how devastating these chemicals can be for communities and the need for strong EPA leadership. Over the past few years, science has progressed rapidly, and EPA will move forward with actions that are based on this new science and a better understanding of the complex challenges so many communities are facing.

The Honorable Dan Crenshaw (R-TX)

1. Administrator Regan, as you know the Senate voted on a Congressional Review Act resolution, the week of April 26th, to repeal the Trump-era methane oil and gas standards. The CRA includes language that prohibits an agency from issuing a new rule in substantially the same form as the one repealed.

- a. Do you support the CRA resolution?

RESPONSE: Yes. On June 30, 2021 President Biden signed S.J. Res. 14/H.J. Res. 34 (“joint resolution”), which restores robust Clean Air Act pollution standards for this sector, protecting American communities. The resolution also clears the pathway for EPA to evaluate opportunities to promulgate even more protective standards under section 111 of the Clean Air Act to address dangerous methane and other pollution from both new and existing sources across the oil and gas sector.

- b. Do you intend to proceed with regulating methane from oil and gas sources?

RESPONSE: The joint resolution restores robust Clean Air Act pollution standards for this sector, protecting American communities. In addition, on January 20, 2021, President Biden issued Executive Order 13990, “Protecting Public Health and the Environment and Restoring Science to Tackle the Climate Crisis.” As part of the Administration’s comprehensive approach to tackling the climate crisis, the order directs EPA to consider proposing, by September 2021, new regulations to establish comprehensive standards of performance and emission guidelines for methane and VOC emissions from existing oil and gas sector sources, and EPA is evaluating those opportunities.

- c. If so, how do you reconcile that with the CRA text?

RESPONSE: EPA agrees with the Report of the House of Representatives Committee on Energy and Commerce, which concluded that any subsequent EPA regulation that strengthens air pollution reduction requirements is not “substantially the same” as the 2020 rule, which removed air pollution reduction requirements, and “disapproval of the 2020 Rescission Rule does not preclude future regulation under section

111 of methane, VOCs, or other pollution from the oil and gas industry.” H. Rept. 117-64, at 13.

2. President Biden issued an Executive Order 14008 directing the EPA review the related technical package for oil and gas sources. What is the status of that review? Have you been briefed or made any decisions on the path forward for that rulemaking?

RESPONSE: As directed by Executive Order 13990, EPA is reviewing the final rule titled “Oil and Natural Gas Sector: Emission Standards for New, Reconstructed, and Modified Sources Reconsideration.” In reviewing the rule, EPA is considering how states and the industry have addressed methane emissions at oil and gas operations, as well as new technologies to detect and capture methane. EPA has opened a public docket for pre-proposal comments and held listening sessions for stakeholders on June 15-17, 2021.

3. President Biden’s Executive Order 14008 called on the EPA to develop a methane regulation for existing oil and gas sources. What is the status of that rulemaking? Have you been briefed or made any decisions regarding that rule?

RESPONSE: EPA is reviewing how states and the industry have addressed methane emissions at oil and gas operations, as well as new technologies to detect and capture methane. EPA opened a public docket for pre-proposal comments and held listening sessions for stakeholders on June 15-17, 2021. EPA is reviewing information and considering options consistent with President Biden’s climate and public health priorities.

4. Administrator Regan, the EPA is frequently subject to lawsuits, many of which are settled. In just the first 100 days of the Biden Administration, EPA has received more than 40 complaints and petitions for review – a majority of which are from environmental groups. These include citizen suits for failing to perform a non-discretionary statutory duty.

- a. What will be your approach to ensuring transparency and public participation in settlement agreements?

RESPONSE: The EPA’s mission is to protect human health and the environment, a hugely important task that requires public trust and accountability. EPA is committed to operating in a transparent manner as we restore integrity and public trust in the Agency’s operations and decision-making. The Agency will continue to follow all statutory requirements in this regard such as Clean Air Act section 113(g). In addition, consistent with President Biden’s Executive Orders, the Agency is evaluating a directive from the last Administration on this topic.

- b. Will you commit to providing the public notice and an opportunity to comment on any proposed settlement agreements?

RESPONSE: The EPA’s mission is to protect human health and the environment, a hugely important task that requires public trust and accountability. EPA is committed to operating in a transparent manner as we restore integrity and public trust in the Agency’s operations and decision-making. The Agency will continue to follow all statutory requirements in this regard such as Clean Air Act section 113(g). In addition, consistent with President Biden’s Executive Orders, the Agency is evaluating a directive from the last Administration on this topic.

5. On March 23, 2021, Administrator Regan stated, “A strong and prosperous agricultural sector is essential to a strong and prosperous economy.” Administrator Regan also stated, during his February 3, 2021 nomination hearing before the Senate Committee on Environment and Public Works, “What I think I will tell our farmers is that with this Administrator, we are going to have an open-door policy.” Will you recommit to this open-door philosophy? Have you directed in writing to EPA’s Program Offices that they each consider the views of the various facets of U.S. food and agriculture prior to and throughout development of agency regulatory actions?

RESPONSE: In my career, I have learned that one of the best ways to address complex challenges is to convene stakeholders and foster open dialogue in order to build consensus and promote pragmatic solutions. In all its programs, EPA will provide for the fullest possible public participation in decision-making. This requires not only that EPA remain open and accessible to those representing all points of view, but also that EPA offices responsible for decisions take affirmative steps to solicit the views of those who will be affected by these decisions.

6. During this unprecedented global pandemic, the U.S. refining sector is facing extraordinary challenges. In the second quarter of 2020, U.S. gasoline consumption fell to 7.1 million b/d, the lowest quarterly value in EIA data since 1993, and has not appreciably rebounded. U.S. refiners are facing plant closures or conversions, with six in the last two years alone. These plants’ closures have significant, negative impacts on the national and regional economies. Employment in these facilities typically brings above average salaries and benefits, and the loss of jobs leads to significant declines in state tax revenues. But the pandemic is not solely to blame for refiners’ hardship. The RFS poses challenges for all refiners, regardless of size. In fact, EIA recently released an analysis estimating that the 2020 RIN generation was 800 million short of what was needed for the 2020 standards. This led to a dramatic increase in RIN costs and a reduction in the RIN bank balance. EPA has historically recognized that a robust RIN bank is vital for managing market liquidity, unforeseen or uncontrollable events (e.g., droughts or pandemics), and supply dislocations (e.g., transportation disruptions). Moreover, the lack of annual volume targets last year and year to date puts upward pressure on RIN prices as they approach all-time highs.

While the Biden Administration is expected to move forward with finalizing eRIN generation for RFS purposes, there remain many issues with this pathway. Since electricity generation from biomass involves several parties along the way and is much more complex than other renewable fuel pathways currently within the scope of the RFS program, the question of who should own the eRIN initially - utility, landfill/digester, OEM, charging station, EV owner – remain. Several refineries have already shuttered, idled, or transitioned, and with the pandemic on top of unrealistic RFS obligations, there is concern more will follow suit, impacting thousands of good-paying manufacturing jobs in America.

- a. Administrator Regan, how will the EPA protect refining jobs as you consider implementation of the RFS?

RESPONSE: As a general matter, any job lost is a hardship for a family, and that's not something I take lightly. EPA understands the concerns you and others are raising with regard to the economic situation facing the oil refining sector, and EPA have heard from stakeholders directly about the challenges that the pandemic has posed to both the refining and biofuel industries. As we consider the RFS program, EPA approach starts with the law passed by Congress and an understanding of the options available during these challenging times for both the biofuels and refining industry.

- b. Administrator Regan, the EPA has consistently stated that the RIN bank is important for market liquidity. Will you commit to ensuring the annual volume rulemakings continue the position that the annual standards should be set to maintain the RIN bank?

RESPONSE: EPA is hard at work on a 2021 volume rule. We are also working on the annual volume rule that will establish volumes for 2022. Our goal is to get proposed volumes out for both 2021 and 2022 this summer, with final volumes for both by November 30 of this year. EPA is cognizant of the importance of the RIN bank to the function of the RFS program and am taking that into consideration as we make decisions on these standards.

- c. Administrator Regan, EPA recently extended RFS compliance deadlines for 2020 and small refinery compliance deadlines for 2019, but refiners need regulatory certainty. To provide this regulatory certainty, will you commit to finalizing 2021 and 2022 annual volumes by year's end?

RESPONSE: EPA is hard at work on a 2021 volume rule. We are also working on the annual volume rule that will establish volumes for 2022. Our goal is to get proposed volumes out for both 2021 and 2022 this summer, with final volumes for both by November 30 of this year. In

implementing the RFS program, we will be transparent, follow the science and the law, and preserve the integrity of the program.

- d. Administrator Regan, if the agency should move forward with the eRIN pathway, how would you propose to ensure RIN validity and prevent fraud and RIN double-counting?

RESPONSE: EPA staff are working to resolve the complex technical and regulatory issues associated with eRINs under the RFS program. In implementing the RFS program, we will be transparent, follow the science and the law, and preserve the integrity of the program.